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THE NATURE AND EVALUATION OF TERRORISM

by

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A.B., Gettysburg College, 1972

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Submitted to the Graduate Faculty of
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of the requirements for the degree of
Doctor of Philosophy

University of Pittsburgh

1987

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THE NATURE AND EVALUATION OF TERRORISM

Terrence L. Moore, Ph.D

University of Pittsburgh, 1987

This dissertation attempts to dissolve the often made claim that 'one man's terrorist is another man's freedom fighter' by providing an explication of 'terrorism' that can be heuristically useful to the social scientist concerned to make empirical generalizations about the subject as well as to the philosopher concerned to evaluate occurrences of terrorism from the moral point of view. In chapter one I provide historical background for this attempt by discussing two historical struggles of groups that have been called terrorists, the Irish Republican Army and the Irgun Zvai Leumi. In chapter two I explicate terrorism as a closely related family of terms which can be identified by reference to a full-featured form of terrorism which I call 'proto-typical terrorism'. In chapter three I first argue that the features of proto-typical terrorism make terrorism prima facie wrong. I then present general criteria that can be used to morally evaluate particular occurrences of terrorism and show how a contractarian would apply these criteria to the questions 'What protections are due to the innocent?' and 'When does a group of persons have a right to a nation state?'.



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Ireland: Where Orange and Green Make Red.

To unite the whole people of Ireland,
To abolish the memory of all past dissensions,
And to substitute the common name of Irishman
In place of the denominations of Protestant, Catholic,
and Dissenter--
These were my means.

The Protestant Hanoverian, William of Orange, defeated the Catholic Stuart, James II, at the Battle of the Boyne in 1690. Following his victory, William III, codified the oppression which the native Irish had been suffering at the hands of the English for centuries. The Irish Penal Code included the following:

But it was not Catholics alone who were burdened with political restrictions because of their religious beliefs. Presbyterians, descendants of both Scotch and English set-

tlers, faced similar burdens and it was largely a Presbyterian spirit of revolt inspired by the French Revolution and especially Thomas Paine's defense of it in his The Rights of Man that led to the rebellions of 1796 and 1798 and the martyrdom of Wolfe Tone, the Zeus of the Republican Pantheon. It was the latter rebellion, coming as it did in the midst of a war between England and France and aided by forays into the heart of Ireland by a French expeditionary force, that directly led to the dissolution of the Irish Parliament and to the formation of the Union known as the United Kingdom of Great Britain and Ireland. Tone himself was captured aboard the Hoche, a ship of the line which was part of a second French expeditionary force, on October 12, 1798. Sentenced to die in a public hanging on November 12th, but having vowed never to suffer this humiliation, Tone slashed his own throat with a pen knife on the eleventh and died on the nineteenth.

The spirit of the French Revolution was infused into the Irish political scene by Paine's ingenuous defense of the French Revolution against what in retrospect were the mostly accurate descriptions and predictions of Edmund Burke in Reflections on the Revolution in France. When The Rights of Man appeared in Ireland and England in February 1791 most of the political burdens had already been removed from the Presbyterians and much of the Penal Code, although not formally repealed, had fallen into desuetude. But the common people, most of whom were Catholic, still had no vote

and, largely tenant farmers, were subject to crushing land rents which in hard times led to the extreme social disruption of thousands of evictions. The favored treatment that the Protestant lower classes enjoyed in obtaining jobs and better housing made the alliance Tone dreamed of short-lived and illusory.

The British Prime Minister at this time, William Pitt, supported greater autonomy for the Irish Parliament, electoral reform, and emancipation of the Irish Catholics. But the Irish political Ascendancy, consisting of the landed aristocracy of English absentee landlords and members of the Church of Ireland intended to maintain their control of the Irish Parliament. Paine's volume, enjoying a huge circulation in both England and Ireland, inflamed these smoldering embers.

As Paine's statements and prophecies could not be tested, they carried weight. They made...any careful and prudent scheme of electoral reform seem pale and colourless. In particular they established the taking of the Bastille as an anniversary to be celebrated and a model to be imitated by Irish democrats. (MacDermot, p. 55)

Among the leadership and membership of the Irish Republican Army, christened in the Easter Rising of 1916, this theme of contempt for "politics" and the moral superiority of armed struggle as a means to achieve Republican ends has been and remains dominant in their ideology and explains the preeminent position Wolfe Tone retains among the martyrs to the Republican cause. But ingenuous ideology on the part of intransigent Republicans explains only partly, if at all,

the prevalence of violence in the Irish political scene. For however Republicans may differ over means, they have largely remained united on the question of the ultimate end of the struggle and this unanimity has been opposed by an equal and opposite unanimity of English and Ulster opinion in total contravention to the end envisioned by Republicans.

The Republican end was and remains that expressed by Tone, "to break the connection with England". The consequence of Tone's failure to force a break with England was the dissolution of the Irish Parliament and the passage in Westminster of the 1800 Act of Union.

The first article of the Act of Union declared that Great Britain and Ireland should 'upon the first day of January, which shall be in the year of our Lord 1801, and for ever, be united into one kingdom, by the name of "The United Kingdom of Great Britain and Ireland".' The air of finality, that 'forever', was not intended to, and did not, encourage flexibility. [This air of finality] did not predispose governments to contemplate reform or change to meet Irish circumstances, however great, or even overwhelming, the case for such reform or change might be, if it was in conflict with the settlement of Anglo-Irish relations embodied in the Act of Union. (Mansergh, p. 318)

Ulster Unionists, soon to become the vast majority of the Protestant population as a result of becoming cognizant of the threat to their privileges which Catholic emancipation together with Home Rule posed, were destined to ally themselves with the English in seeking to thwart reform and to preserve the Union. But whereas the English resistance to reform was calculated to block measures thought to be a threat to a Union believed to be in the vital interest of

England and the empire, the Unionist resistance was and still is grounded in a fear of their fate as a minority in an Irish Republic.

Particular Irish grievances, such as land reform, were frequently wrested from Parliament only after it became apparent to the English that further intransigence on the relevant issue posed a threat to the Union. The threat would typically become apparent as a result of "outrages" and organized resistance on the part of the Irish. Unionists, too, would use the threat of violent resistance to block reforms and to preserve the Union which served as their symbol of what to them seemed justifiable Protestant privileges. Thus do Republican green and Ulster orange issue a scarlet terror.

The Irish Land War

He has nothing to hope, and nothing to fear, except being dispossessed of his holding, and against this he protects himself by the ultima ratio of a defensive civil war.

--John Stuart Mill

L'Irlande a subi le régime du despotisme: L'Irlande doit être corrompue; le despotisme a été long, la corruption doit être immense.

--Gustave de la Bonninière de Beaumont

Between 1800 and 1841 the population in Ireland rose from approximately 5,000,00 to 8,175,000. Coupled with this rise in population, landlords, particularly "in some of the eastern counties after 1815, planned to consolidate [their] estates by getting rid of the smaller tenants." (Mansergh, p. 53) With a decline in the price of corn the landlord

found that he could derive more profit from cattle raising than he could from the rents received from tenant farmers. The evicted Irish tenant farmer faced limited options: he could starve, become a beggar, or he could induce other tenants to further subdivide their acreage. By "1841 the Census showed there were some 600,000 holdings under fifteen acres and less than 130,000 over fifteen acres in extent. Nearly 50 per cent of all holdings were under five acres."

(Ibid.) Evictions continued on a massive scale during the period 1849-1911. In 1850, alone, almost twenty thousand families were evicted. The result was the rise of illegal organizations such as the "Whiteboys" or "Whitefeet". In a public letter to Prime minister Lord Melbourne in 1834, Poulett Scrope, a member of Parliament who interested himself in Irish problems and a prolific pamphleteer, wrote:

The peasantry of Ireland do more or less obtain from the Whitefoot associations that essential protection to their existence which the established law of the country refuses to afford. The Whitefoot system is the practical and effective check upon the ejectment system. It cannot be denied that but for the salutary terror inspired by the Whitefoot the clearance of estates (which in the over-peopled districts of Ireland is considered, justly or not, to be the only mode of improving or even of saving them) would proceed with a rapidity and to an extent that must occasion the most horrible sufferings to hundreds and thousands of the ejected tenantry. (quoted in Mansergh, p. 57)

The incidence of "agrarian outrages" more or less varied directly as a function of the number of families evicted during the period 1850-1911. For example the peak year for evictions during this period, 1850, with nearly 20,000 for the year was also the apex of outrages with a total of

1,362. (O'Brien, pp. 249-253) And as evictions nearly halved from 8,591 in 1852 to 4,833 in 1853, outrages also nearly halved in these same periods from 907 to 469.

(Ibid.)

The landlords also followed practices which discouraged tenants from making improvements which might increase the productivity of their farms, for uncertain tenure made the reaping of benefits from improvements doubtful and

an improvement might open the way to an increase in rent, with no recompense to him when his tenure expired, but a bigger rent from the landlord, who in accord with a not unfamiliar practice in the south-west, might advertise the holding for auction to the highest bidder (Mansergh, p. 59).

The outrages consisted of: threatening letters and notices, homicides, arson, cattle abuse, firing at a person, and assaults on bailiffs and process-servers. (O'Brien, p 249) This "hostility had immediate cause and was at once understood." (Mansergh, p. 59) And this understanding allowed them to inspire fear in such a way as to serve the purposes outlined by Poulett Scrope. But it must be understood that the ends were meant to be achieved in the long run not by reforms such as fairer rents and longer tenure but by abolishing the land system as it then existed. The Irish peasant could perhaps from time to time become resigned to ameliorative reforms but they "desired in the long term ownership of land, from which in the past their forefathers had in many cases been forcibly dispossessed".

(Ibid.)

But abolition would have directly challenged the poli-

tical and economic theories prevailing in England at the time and, given the Union, Parliament was not willing to grant concessions to the Irish that could not be permitted in England. (Mansergh, pp. 61-8) Thus once the Irish peasant became cognizant of the necessity to break the Union in order to achieve his goals, the incidence of agrarian outrages could be decreased when this seemed to be in the best interest of other efforts to achieve Irish independence. For example in the 1880s, with the Catholic franchise, the Irish Party under the Protestant leadership of Charles Stewart Parnell was able to wield sufficient votes in Parliament to form a coalition government with the Liberal Party under William E. Gladstone. The Liberals were being slowly won over to the idea of Home Rule for Ireland.

During the first half of 1886 the tenants had shown remarkable forbearance in obeying the calls of the parliamentary leaders for social peace so as not to embarrass their political negotiations or retard the concession of Home Rule. (O'Brien, p. 36)

However The Liberal Party went down to defeat in elections that year and "With Gladstone's defeat...the politicians could no longer implore the tenants to suffer in silence." (Ibid.) Consequently, total agrarian outrages for the year were higher than any of the three preceding years and there were more homicides in that single year than the three previous years combined. (Ibid., pp. 250-251) Thus the aim of the terror that the agrarian outrages were meant to inspire became necessarily linked with the goal of Irish Republicanism.

The Easter Rising and the Tan War

L'habitant de l'Ulster n'est séparé que par un fleuve de celui du Connaught; mais la religion établit entre eux une plus puissante barrière; et bien de temps encore s'écoulera avant que le puritain écossais du nord de l'Irlande regarde et traite comme ses frères les catholiques du Connaught.

--de Beaumont

Although Tone had succeeded in forging a fleeting alliance between Catholics and Dissenters, largely because the Dissenters were inspired by the American and French Revolutions to temporarily adopt nationalist and democratic aspirations, his defeat and the subsequent Union were quickly followed by the Protestant Ulster population retreating behind their puissante barrière of anti-Catholicism. The vastly different economic development of Ulster as compared to the rest of Ireland contributed to the embittering of this barrier especially between Protestant and Catholic in Ulster. For although by 1910 the traditional restrictions on Catholics had been removed and vast reform had occurred in the land system such as rent reductions and increased land tenure rights, conditions in Ulster still favored sectarianism.

Throughout the nineteenth century Leinster, Munster and Connaught remained, despite very considerable differences in their living standards, predominantly agricultural, but Ulster found a new prosperity in rapid industrial expansion...This remarkable and rapid growth had political consequences which Irishmen rarely ponder. Badly housed workers, with a low standard of wages and long hours, business men and manufacturers absorbed in the task of amassing new and hardly acquired wealth composed the most important classes in [the] expanding city [of Belfast]. Its inhabitants were brought up in an atmosphere of sectarian strife; the educational system which might have counteracted it was here, as in the rest of Ireland, notoriously inade-

quate...It was because Belfast was flourishing, expanding and, above all, a highly competitive community that the spirit of bigotry survived in all its intensity. (Mansergh, p. 209)

In response to Liberal government attempts in the 1890s and again in the 1910s to legislate Home Rule for Ireland the Conservatives, relying on this division, chose as part of their strategy to play the "Orange card" by encouraging militant Protestants in Ulster. Thus encouraged in the 1910s, the Unionists formed the Ulster Volunteer Force and began drilling to show intent to resist Home Rule by force of arms. "At least partly in response" to the creation of this militant organization Catholics formed, in 1913, the Irish Volunteers. (Bell 1983, p. 4) When Parliament passed but the House of Lords and World War I delayed implementation of Home Rule in the 1910s the stage was set for another return to violence. Although it appeared that the Irish, having given up their language and with their economic conditions steadily improving, were destined for full absorption into Great Britain, various individuals maintained a "clearly illogical, almost mystical commitment to the Irish revolutionary traditions." (Bell 1983, p. 9) These Republicans, oblivious to the vastly different character of Ulster from the rest of Ireland and still disdaining reform and politics, held fast to Tone's vision; Orangemen, equally destructive of the truth and opposed to further concessions to their competitors for work and housing--the Catholic laboring class in Ulster--held "Home Rule means Rome rule".

Shortly past noon, Monday, April 24, 1916, units of the Irish Volunteers led by P.H. Pearse, Joseph Plunkett, and Eamon Ceannt attempted a coup d'état in Dublin. Key positions throughout Dublin were occupied and the Irish Republic, with a provisional government headquartered at the General Post Office, was declared. The Irish Republican Army (IRA) was born. The attempt was made by one thousand Irish Volunteers who occupied "positions in an erratic arc around the rim of Dublin proper". (Bell 1983, p. 3) Several thousand other Volunteers remained in the nearby countryside. In contrast to the insurrections of 1796 and 1798 there was no popular groundswell of revolutionary sentiment, but the rebels had hoped to inspire a general revolt by their actions. However, the predominant reaction among the populace was instead surprise and shock.

The British crushed the small band of volunteers, moving artillery into Dublin and using it to blast buildings occupied by the rebels. The English attitude was "the rebels had risked all, now they must suffer all...hardly a novel British approach to the Irish situation." (Bell 1983, p.3) The city of Dublin received extensive property damage and many civilians were killed and wounded because of errant artillery rounds. The rebel leadership were executed and the Volunteers who had taken part were imprisoned. Eventually there were 90 death sentences handed out and approximately 3,500 people under arrest or sentence. (Bell 1983, p. 13) As a result of the British handling of the insur-

rection those who had taken part came to be considered heroes rather than fools. Songs on "Easter Week" were heard and poems were written. Sir John Maxwell, the British commander, was considered a butcher and the leader of 40,000 British troops that made Ireland seem a garrison state. "The latent forces of revolutionary Ireland had been tapped and the people were awakening." (Bell 1983, p. 14)

From the very beginning of the Easter Rising the average Volunteer did not believe that this insurrection was to be the one shot effort of their generation for Irish independence as had so often been the case with earlier generations. And so "1,800 Irishmen turned themselves into a centre of separatism." (Bell 1983, p. 14) The Irish Republican army began to prepare for the next round of action. Recruitment temporarily soared when, in 1917, discretionary powers of conscription were granted to the British Prime Minister in an attachment to the Home Rule Bill. The Irish were enraged at this affront and a general strike was called for April 23. The British rounded up over 70 members of Sinn Féin, a group that had recently moved from espousing separatism with a dual monarchy to republicanism and had elected Eamon de Valera, the leader of the last group of Volunteers to surrender during the Easter Rising, as President of a shadow Republic. Both Sinn Féin and the Irish Volunteers were banned.

When World War I ended in 1918 a general election was called immediately and Sinn Féin contested in it and won a

clean sweep on a platform pledged to abstain from Parliament. That is they swept 73 of 75 seats contested for, all Irish seats except six won by the Irish Party, still committed to winning Home Rule through Parliament, and 26 won by the Unionist party in the North-East where the Orangemen held sway. The victorious candidates of Sinn Féin not in prison met in Dublin on January 21, 1919, as the Dáil Eireann, and voted a Declaration of Independence and a Constitution. The British held overwhelming control of Ireland and viewed the whole thing as a farce. Soon the British Prime Minister, Lloyd George, was to consider partition with a measure of Home Rule for each part of Ireland the most sensible solution. Sinn Féin managed to set up a shadow structure of government throughout Ireland and in some rural areas was in virtual control. The Volunteers in the IRA were ready for action.

The first British casualties since the Easter Rising occurred the day the Dáil first met when two Constables were killed when they resisted an attack aimed at securing a cart of explosives at a quarry near Tipperary. By autumn of 1919 the IRA settled on the task of neutralizing the Royal Irish Constabulary (RIC) and their first campaign of terror began. The weapons to be used, because they could adopt no others, were "those of the weak: stealth, ambush, assassination, intimidation." (Bell 1983, p. 20) They would destroy the RIC by spreading a climate of fear throughout the force. By the end of 1919 the RIC was intimidated by this campaign.

Barracks had to be abandoned and recruitment plummeted. In 1920 the British were forced to replace the RIC losses with recruits from England. They were known as the "Black and Tans" because, hastily equipped, their uniforms were a hybrid of black leather and khaki.

In destroying the RIC the IPA had created major social and political disruption by means of a terror campaign aimed at furthering the goal of an Irish Republic. For the British were wrong in assuming that most Irishmen would share their view that people who shot at policemen from behind walls were murderers. In fact the Irish public tended to see it as the British "getting their own back" and a September 1919 "coroner's jury [in an inquest into the death of a British infantryman in an ambush,] refused to return a verdict of murder, finding only that death had resulted only from the bullet wound." (Bell 1983, p. 21)

The British, unable to find anyone willing to testify, were helpless to identify those who were responsible for the terror tactics and this led to further social disruption. "Slyly, without formal recognition, the British chose to permit unofficial counter-terror." (Ibid.) For example, after the September 1919 coroner's jury refused to return a verdict of murder, 200 British soldiers rushed into a Catholic neighborhood and wrecked the houses of several jurymen and no effort was made either by the men's officers or the RIC to stop the raid. Obviously, British troops engaging in such actions did much to spread the view among the Irish

that the British government was a hostile tyranny. So even if initially most in the IRA neither foresaw nor intended for their actions to incite the British to counter-terror, such an effect was exploited to convert other Irishmen to the cause of Republicanism and to influence world opinion.

What [the IRA] could do was to keep the country in an uproar, drain off a substantial portion of the British forces at great cost in time, nerves and gold, and through a series of pinpricks, delight the Irish and enrage the British. Since the enraged British now took their vengeance openly and violently, every IRA action almost guaranteed that there would be a further instance of British misconduct to be retailed to the world and to an increasingly uneasy public in Britain. And each example of Tan terror renewed the determination of the Irish people to resist Saxon arrogance and brutality. (Bell 1983, pp. 23-4)

In conjunction with the terror campaign the IRA also conducted sabotage operations during the Black and Tan War and the unifying aim of both types of operations was to make Ireland ungovernable by the British. On May 25, 1921, the greatest operation of this latter type occurred. The Dublin Brigade of the IRA on this date destroyed the "Custom House, the seat of nine British administrative departments including two taxing departments and the Local Government Board." (Ibid., p. 26) In burning this building to the ground the IRA destroyed mounds of paperwork "which had made possible the smooth control of Ireland." (Ibid.)

By June of 1921 the British were convinced that partition was the only solution to the Black and Tan War, for although the IRA had largely succeeded in showing that the part of Ireland in which they held sway was ungovernable by the British, the Orangemen had demonstrated that Ulster was

adamant in remaining British. Or, to be more accurate, they were determined to avoid becoming a Protestant minority in a state governed by those who had previously been the political outcasts. The Orangemen turned to a terror campaign aimed at driving the Catholic population out of Ulster, or failing that into quiet submission to their political aims.

The Orange terror reached a peak in the summer of 1921 shortly after the British had succeeded in setting up a functioning government in Northern Ireland and only then had sought peace talks with Sinn Féin.

On July 10, Belfast's Bloody Sunday, 161 Catholic homes were burned, fifteen persons killed and at least sixty-eight wounded. It was only a taste of what was to come. The Orangemen, fearful of absorption into a Green, Catholic Ireland where past Protestant arrogance would not be forgotten, suspicious of betrayal by the British, and blindly angered by the presence of heresy and treason in their midst, struck again and again during the next year at the Catholic community. Men were hounded out of their jobs, then their homes, and finally their country. Mobs, unrestrained by the police or army, ran loose firing and beating. Homes were burned. Men, women and children were shot down in the streets. (Ibid. p. 29)

In December of 1921 an Irish delegation led by Michael Collins and Arthur Griffith, the founder of Sinn Féin in the days of separatist rather than nationalist aims, concluded a treaty with the British delegation led by Prime Minister Lloyd George. The Black and Tan War was over but the treaty included three features which were very disappointing to the spiritual descendants of Tone: "the Treaty did not recognize the Republic, it did not guarantee a free united Ireland, and it stipulated an oath of allegiance [to the British crown]." (Ibid. p. 30) Ireland was partitioned into

two states roughly corresponding to the areas of Protestant versus Catholic majorities. Several areas of predominantly Catholic population remained in Orange control and a border commission was set up which was to determine the final boundaries. The plus puissante barrière was now la plus puissante qu'on pouvait en imaginer.

The Civil War: Conventional Battles, Guerrilla War, and Terror

If the Republicans soon came to form their myth of a divided Ireland imposed by the British and were to become ideologically blind to the Orange barrier, the Orangemen too had their myth of a monolithic political opposition that would march in lock step to the beat of the Catholic hierarchy. The political reality in the Irish Free State, formed by the treaty from 26 South-West counties, was more complex.

In the first place there still remained a large number of individuals who abhorred violence and preferred that political differences be worked out in whatever institutional structure happened to exist. Such individuals, although perhaps not entirely satisfied with the treaty for a variety of reasons, were prepared to make it work and to pursue their interests through it.

A small percentage of the population, predominantly Protestant middle class, remained Unionist in sympathy, but supported the treaty. They realized that Union was no longer possible and provisions of the treaty specified that the

constitution of the Free State would have written guarantees of freedom of conscience and religion and prohibiting a special place for the Catholic Church.

Sinn Féin and IRA members split into several camps. Some were solid treaty supporters led by Arthur Griffith. They believed that with the removal of British troops this treaty made a tremendous step for the Ireland of the 26 southwestern counties, more than anything in the last 700 years. Others believed that the treaty was an excellent stepping stone to a full 32 county Republic and should be ratified and the provisions carried out for that reason. Still others, led by Eamon de Valera believed that the treaty compromised too much and should not be ratified. The last group of Republicans believed the men who signed the treaty were traitors, the treaty should not be ratified, and that the IRA should return to war against Britain in the northern six counties.

The majority of Irishmen in the 26 counties supported the treaty from one or the other of the first two of the above points of view but the two most important centers of power, the Dáil and the IRA split nearly evenly between those who supported the treaty and those who could not. Various attempts were made to reconcile the sides and plans were made for the IRA to carry out a campaign against the British in the North with the surreptitious support of those who favored the treaty, but in the end reconciliation proved impossible. A civil war in the Free State resulted.

In a vote of the Dáil on January 4, 1922, of 64 to 57 the treaty carried and de Valera who had been President, was replaced by Griffith who went about organizing a Treaty Government and forming a paid army with a separate command structure from the IRA. With military equipment, including artillery provided by the British, the Free State Army, although outnumbered 4-1 by the IRA, became a force to be reckoned with by June. On June 28 the Free State demanded the surrender of the IRA headquarters. Artillery was used against the headquarters and other IRA positions throughout Dublin and the Civil War was begun.

The IRA made only one effort to move against the Free State Government, when several infantry columns began a march from the south toward Dublin. They were halted and forced to turn back by Free State forces and the IRA next determined to form defensive positions along an east to west line on the lower third of the island. Main forces were in the towns and villages along this line from Waterford in the east to Limerick in the west. The Free State forces moved on both of these flank positions and began a strategy of isolating and destroying the garrisons.

Meanwhile the IRA still had failed to form any overall war plan and instead waited for the Free State forces to act against them. One by one the garrisons along the defensive line were routed and then the Free State made seaborne landings around other garrisons further to the south. By

mountains and forced to turn to guerrilla tactics. The IRA turned at this stage to the sabotage of bridges and railways. Both sides turned to ambushes of opponent patrols and camps. Guerrilla warfare dragged on through the summer and fall and so in November the government decided upon a course of harsh measures and the turn to terrorism began.

In November the Dáil passed a measure

authorizing military courts for a variety of offenses. On November 17, 1922, four IRA volunteers were executed--essentially for waging war against the government. To demonstrate that no one, however exalted, would escape the government's campaign of legalized terror, Erskine Childers was shot on November 23, having been found in possession of a small pistol once given him by Collins, even while an application for an habeas corpus order was pending. The Cabinet had decided that in the long run a campaign of counter-terror would save lives and bring the war of attrition to a swifter end. The executions went on. The IRA replied by shooting two of the deputies responsible for the Murder Bill, one of whom subsequently died. Before the already uneasy Third Dáil could collapse in panic the Cabinet ordered the executions, without any pretense of legality, [of four captured IRA leaders]. They were taken out and shot on December 8. (Bell 1983, p. 37)

Eventually the Free State would perform over seventy-seven executions. Others simply disappeared and, with over 12,000 Republicans imprisoned by May, the will to resist was gone. De Valera, the leader of the Republican "government" sent out the order to lay down arms on May 24, and the civil war was over.

Since the Civil War: Sabo-Terrorism and Sectarian Strife

Yet, whatever doubts may have been felt about the intellectual, moral and physical arguments of the rulers of Northern Ireland, it was clear that they were right about one thing: any serious attempt, either by Dublin or London, to impose Home Rule for all Ireland

as a unit would precipitate a civil war far more bitter and devastating than the actual intra-Catholic civil war of 1922. (Cruise O'Brien 1972, p.131)

As a community, the Catholics of Northern Ireland in 1921, "aimed at the destruction of Northern Ireland". (Ibid, p. 130) Some meant to accomplish this goal by force of arms and "the rest of them were either sympathetic to this endeavour, or--at best--unwilling to co-operate with the authorities in bring it to an end." (Ibid.) The Protestant majority, comprising approximately 67 per cent of the population, thus had good reason to suppose that the sizable Catholic minority posed a real threat to their political order, an order in which the majority enjoyed significant political and economic advantages over the minority. It was not long until this political order, feeling under siege from the minority within and the majority from the South, moved to create further institutional guarantees of their political ascendancy.

The Government of Ireland Act of 1920, passed in Westminster, authorized the creation of a Northern Ireland Parliament subordinate to Westminster. The act forbids the Northern Ireland Parliament to 'give a preference, privilege or advantage, or impose any disability or disadvantage, on account of religious belief, or religious or ecclesiastical status...' Yet the Northern Ireland Parliament passed the Local Government Act on July 5, 1922, and received for it the assent of the British government on September 11, 1922. This law abolished proportional representation for local

government and the same was abolished for Parliamentary elections in 1929. These measures were used to assure the effective disenfranchisement of the Catholic population and to perpetuate the discrimination against Catholics in jobs and housing. For example, Londonderry, enjoying a two-thirds Catholic majority, had a city council with a two-thirds Protestant majority. Annual celebrations, with a major one in Londonderry, were held in July and August to solemnly celebrate Protestant victories in the 1600s and the continuing Protestant Ascendancy.

In the South in 1932 Eamon de Valera, still representing the Republicans who rejected the treaty government and aspired to form a united, Republican Ireland but not necessarily by force of arms, led the political party he formed, Fianna Fáil, to victory in elections in 1932. By 1937, having consolidated his party in power he repudiated the constitution of the treaty government and his government passed a new constitution. The new constitution contained three articles which buttressed the Northern prejudices:

Article 2 of the Constitution declared the national territory to be 'the whole island of Ireland, its islands and the territorial seas'.

Article 3 asserted--while leaving in suspense for the time being 'the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that territory'.

Article 44.1.2 recognized 'the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith professed by the great majority of the citizens'. (Ibid., p. 120)

De Valera determined to try diplomacy to win over the British and Northern Ireland governments to form a united Ireland but the language of the Constitution served to strengthen a prevailing Protestant "siege-mentality".

(Ibid. p. 121) None the less by April of 1938 de Valera signed an Anglo-English agreement, which ended an Economic War that the parties had been waging since de Valera had refused to pay land annuities to the British and which also "granted Ireland possession of the British Treaty ports."

(Bell 1983, p. 140) Neville Chamberlain, the British Prime Minister, had expressed dissatisfaction with the state of affairs in Ulster. The de Valera Republicans believed there was reason to hope for further diplomatic progress. But by 1938 the spiritual descendants of Tone were reorganized, rearmed, and recommitted to armed struggle. The stage was set for the cycles of IRA sabo-terrorism and Northern Ireland sectarian strife which have been characteristic ever since.

An IRA General Army Convention met in April of 1938 and the vast majority of the delegates were firmly committed to Seán Russell and his intention to begin a bombing campaign in Britain aimed at forcing the British to begin negotiations to end the partition of Ireland. Their ingenuous belief was that de Valera, although unable openly to support them, would permit it in order to reap the benefits. Instead he would be horrified at the undertaking of a course

of action that, he was sure, would bring a halt to the diplomatic progress which he believed would soon yield the united Ireland they both wanted.

The official strategic basis of the bombing campaign was a document outlining a bold sabotage campaign drawn up at Russell's request by Seamus O'Donovan, former Director of Chemicals for the IRA, known as the "S-Plan". (Ibid. p. 148) The plan was actually far too complicated and beyond the means of the IRA in man-power and material to bring off. It called for strikes aimed at key British industries such as aircraft manufacture which, because of the dangerous potential adversary Britain faced in a rearming Germany, the English would be anxious to protect. It also called for creating economic disruption by cutting services such as through regular attacks on the London Underground, the railways, or electric transmission lines.

Lacking the means for the S-Plan sabotage campaign the IRA, consisting of individuals who still considered themselves by and large as 'good Catholics', also lacked the instincts necessary to do what is required for a campaign

of generalized terror where arbitrary explosions intimidate the population at large, a process which can easily be intensified by carrying out attacks on individuals. This hopefully, for the revolutionary, creates an atmosphere of terror so intense that the population seeks respite rather than tolerate further abuse. (Ibid.)

The campaign became sabo-terrorism. Sabotage in official strategy but, lacking the resources to pull off the S-plan it shifted to a campaign of mostly random bombings of power

stations, cinemas, Underground stations, post offices and other highly visible locations with a double aim. The campaign was intended to weary the British government through the financial drain of increased security costs and to create fear and anxiety within the British population at large both of which in theory would create pressure on the British government to negotiate a withdrawal from Northern Ireland. Efforts were usually made to provide warnings in time so that people could be evacuated but this was not invariably the case. Some deaths were foreseen, but using the Catholic principle of "double effect", were considered unintended and unavoidable. But the most notorious incident of the entire campaign, an explosion at a location which if this kind had been repeatedly chosen might have resulted in an atmosphere of generalized terror, was an act of calculated terrorism. This was the Coventry bombing of August 25, 1939.

Five persons were killed instantly and sixty others were injured when a bomb went off in the basket of a bicycle parked by a curb along a street in a crowded shopping district in the middle of the afternoon. The still anonymous person who parked the explosives laden bicycle recounted the instructions given to him by his IRA superior in an interview published in the July 6, 1969, Times of London:

We strolled down the street, smoking cigarettes as if we had not a care in the world. Outside Montague Burton's tailoring shop in Broadgate the other fellow stopped.

'This is where you will place the bomb,' he said. 'It will be in the carrier of a messenger boy's bicycle and you'll put the bike against the kerb at 2.30.'

The Bomber, who combines courage with a certain respect for survival, started to argue that "I wouldn't have much chance of getting away unseen at that hour of the morning."

It was explained to him, coldly, that it was at 2.30 in the afternoon that he would place the bomb. The significance of the operation sank in. "Leaving a bomb in a crowded street and killing innocent people is nothing but cold-blooded murder" he said. Coldly, again, he was told: "You'll do it because if you don't you'll be court martialled and shot the minute you set foot in Ireland again." (Sunday Times, July 6, 1969, p. 24)

It is still not certain that the Coventry Bombing was part of a conscious move by the IRA leadership away from the sabotage strategy of the S-plan to a campaign of generalized terrorism. But that it was a deliberate act intended to create terror as a result of the bombing deaths and injuries of many people seems clear from the Times interview. Exactly who intended this terror and to serve what purpose remains unclear. Perhaps it was intended to be part of a strategy to induce the British people to bring pressure on their government to abandon Northern Ireland. Perhaps it was that "the movement was betrayed from within, both by those who wanted martyrs, and by those who wanted to discredit the IRA by inciting it to gory excess." (Ibid, p. 1) Whatever the purpose intended to be served, it was not that envisioned by the S-plan.

By 1940, the IRA command structure decimated by the de Valera government and Russell dead from a burst gastric ulcer, the campaign collapsed. Thus ended a campaign in

which the IRA leadership may have lacked the instinct for the jugular to engage in indiscriminate, generalized terrorism, but as a result of the bombings of public buildings and, most especially, the Coventry Bombing not the reputation.

The nature of the political conflict in Ireland has not changed in essentials since the de Valera government first came to power. Republicans continue to be committed to a united Ireland and are divided into two major groups. The first of these, now dominated by the men of the Provisional IRA, are those who passionately believe that armed struggle is the only means to bring about a united Ireland, which is currently kept divided only by British power. The second group of Republicans are primarily parliamentarians and negotiators but not eschewers of force. A united Ireland remains for them a goal, conceived to be nearer or farther from realization (and nearterm desirability) depending on prevailing conditions. Such men have dominated the Irish Dáil since de Valera first came to power. Northern Ireland's Catholics are overwhelmingly Republicans of one or the other types while the Protestant population remains predominantly Unionist in sentiment. Unionists aim fundamentally not at maintaining a Union with Great Britain but at remaining free from a united, Catholic Ireland. The Unionists, facing a significant minority of thirty-three per cent Catholics, are profoundly uneasy about the security of their political independence from the Republic of Ireland.

When significant numbers of the minority population engage in activities which are perceived to threaten the independence of Northern Ireland from Catholic control, such as during the civil rights marches of 1969, the Unionist population erupt en masse in a frenzy of violence aimed at intimidating the Catholic population into submission or driving them out.¹

The aims of the Republicans and the Unionists are essentially zero-sum, non-bargainable political demands.² Unfortunately, as Ian McAllister and Richard Rose discuss ("Can Political Conflict Be Resolved by Social Change? Northern Ireland as a Test Case"), there seems to be little prospect that significant numbers of the Orange and the Green will renounce their zero-sum demands. "Gross religious identification is...the one indicator that clearly discriminates individuals with differing constitutional choices.", McAllister and Rose found. (McAllister and Rose, p. 554) Within each of the separate religious communities there are wide differences with respect to such factors as extent of religious commitment, socio-economic class, educational level, age, and job security; to mention a few of the social variables which were surveyed to determine how well they correlated with degree of commitment to political conflict and zero-sum political demands. The results of the survey indicated that nothing is so true in Northern Ireland as that two separate polities each quite diverse in many socially relevant ways are quite likely to remain unrecon-

ciled to each others' political aspirations for a long time to come. "Today's conflict can be traced back to the sixteenth- and seventeenth-century battles of the Reformation and Counter-Reformation." (ibid. p. 539) I have tried to trace some of this history with an eye to the social, economic and political complexity within which this zero-sum political conflict has arisen. The pogroms of the Unionists and the terrorism of the IRA are hardly surprising components of this history.

The conflict in Northern Ireland is a political conflict. Facing up to the violent constitutional conflict about how Northern Ireland should be governed is the same as facing up to a Gordian knot. Such a knot cannot be untied by the erosion of time. It can only be loosened by actions directed at its core. There is no sign that this zero-sum conflict has an immediate "solution", in the sense in which that term is usually used to imply a "happy" ending consistent with liberal democratic values...For the time being, the only form of government that appears sustainable (if not desirable) is governing without consensus. (Ibid. p. 555)

Who best is entitled to govern in Northern Ireland and without the consent of whom? Were the tactics of terrorism justifiably used in the past in this conflict? Do they have any future justified role to play? But perhaps we still have no clear idea of precisely to what 'terrorism' refers. I turn next to an early stage in the development of a similar Gordian knot. Then we shall be in a better position to hazard an advance.

Israel: Born of Conflict.

His Majesty's government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.

'Balfour Declaration', November 2, 1917

If Arthur Balfour believed that the "existing non-Jewish communities in Palestine" could be reconciled with the aspirations of the World Zionist Executive, Theodore Herzl, the founder of Zionism, was under the influence of no such illusion. In Der Judenstaat, published in 1896, He had argued:

An infiltration is bound to end badly. It continues till the inevitable moment when the native population feels itself threatened, and forces the government to stop a further influx of Jews. Immigration is consequently futile unless we have the sovereign right to continue such immigration. (Herzl, p. 95)

It was not the interests of the indigenous Palestinians that Herzl thought could be reconciled with the Jews' but those of the then Turkish rulers of Palestine and the European nations eager to rid themselves of the Jewish problem but anxious about the Christian holy places in Palestine.

Herzl, originally an assimilationist Jew who had proposed that Western European Jews should convert en mass to Catholicism, was convinced by the Dreyfus affair and the Russian pogroms of the 1880s and 1890s that Jews would never be granted free and equal citizenship in gentile society. He aimed at the creation of a Jewish state 'as Jewish as

England is English' in order for the Jews to be able to enjoy the full fruits of the Enlightenment denied to them, most shockingly as the Dreyfus affair indicated, even in what was felt at the time to be the heart of the Enlightenment, France itself.

Herzl didn't seem to find any particular location a compellingly salient place at which to establish the Jewish state. But he was emphatic, for the reasons sketched above, that it must be as Jewish as England is English and France is French. He proposed accepting an English offer for a homeland in a sparsely populated area of British controlled Africa but to the Jews of the Pale of Settlement along the western edges of Russia, for whom the need to emigrate was felt most keenly, only Palestine was an acceptable location for the Jewish state. For centuries they had toasted, 'Next year in Jerusalem'. Despite Herzl's misgivings if there was to be a Jewish state, it must be in Palestine.

Immigration began, the Ottoman Empire fell. Great Britain obtained a Mandate to govern Palestine from the League of Nations which incorporated the 'National Home' together with the 'no prejudice to native rights' aims of the Balfour Declaration. The leadership of the growing Yishuv, the Jewish population in Palestine, professed to believe and in fact genuinely did seem to believe that there was no conflict between the interests of Jews and native Palestinians. But all the while they purchased the land of absentee landlords and evicted the Palestinian peasants

whose families had worked the land from times long past. In their growing towns and cities, on ideological grounds, they adopted policies which restricted Arabs initially from all work in their employment and eventually from all but the most menial and low paying tasks. They refused to buy goods from Arab merchants. When it finally dawned on the British that the Balfour Declaration and Mandate encompassed mutually exclusive ends a conjunction of forces (e.g. institutional interests within the British government, British economic interests, and international systemic considerations) would lead a succession of British governments to attempt to muddle through in control of Palestine and hope for the best.

The World Zionist Organization and later the Jewish Agency, the political leadership of the Yishuv with official recognition under article 4 of the Mandate, were dominated by individuals who espoused either "political Zionism" or "practical Zionism". Political Zionists worked to establish Zionism in one dramatic stroke, following the strategy of Herzl, by attempting to cut a deal with a world power. As Conor Cruise O'Brien said,

Herzl wanted to save the Jews in one spectacular stroke. He wanted to negotiate, at the highest level, a grant of land adequate to accommodate Jews in great numbers. He wanted to win financial support on a scale adequate to develop this land into a home for all Jews who either could not or would not be assimilated, which meant the great majority of Europe's Jews. In that home, they would build their own state. (Cruise O'Brien, 1986, p. 82)

Practical Zionists ultimately aimed at the same objective of a Jewish state but believed that "the groundwork for that state had to be laid in inconspicuous stages, over many years." (ibid. p. 81) They worked assiduously for the creation of 'Zionist facts', Jewish settlements, and assumed that eventually a state of their own could be cajoled out of whatever great power controlled 'Eretz Israel' the "Land of Israel". After the Mandate both versions of Zionism continued to operate in alliance and both of these types of Zionist assumed that eventually the Jewish State would be brought into existence with British acquiescence.

In 1921 Vladimir Jabotinsky founded the Union of Revisionist Zionists. Jabotinsky believed that the practical and political Zionists were deluded in believing that either international capital-hopping negotiations or Zionist "facts" would wring a grant for a Jewish state in Eretz Israel. A Jewish state, he believed, could only be established in Eretz Israel through armed struggle. The Irgun Zvai Leumi, The National Military Organization, was the military arm of the Revisionists. Under Menachem Begin they fought what in Begin's book by the same name was called The Revolt. Jabotinsky died before he could see the revolt he inspired come to fruition but his slogan, "Only thus", together with a drawing of an arm holding aloft a rifle superimposed over a map of what is today Israel and Jordan, was carried by the Irgun as their organizational symbol. Revisionists, or, as they were also called, "Maximalists",

they were but as in the earlier dispute between practical and political Zionism the dispute was not primarily over the end pursued, a Jewish state in Eretz Israel, but rather over questions of practicality and urgency.

Herzl had rejected practical Zionism because under the impact of the Russian pogroms he felt that time was running out for European Jewry. Begin was born in the Pale of Settlement in which the impact of the pogroms had made the ground most fertile for recruiting and training young Jews for Revisionist armed struggle and his experience of anti-semitism in Soviet Russia confirmed his Zionism. By 1943, having made his way to Israel and into the Irgun, with the Holocaust in full swing, Begin believed that time was not running out but had run out for European Jewry. Simultaneously, British policy continued to restrict Jewish immigration into Palestine. The resistance which Herzl had foreseen had become a reality. Begin was convinced that a strategy had to be devised to drive the British out of the Mandate with relative dispatch. He was equally convinced that with the British out the Jews could marshal the resources to establish their state by force of arms. The needs of the Arabs? Zionists either assumed that the Holocaust justified a claim that the needs of the Jews outweighed those of the Arabs or naively believed that there was no real clash of aspirations. So in practical fact all Zionists were agreed that the needs of the Arabs could safely be ignored. That it was within their power to drive

the British out of Palestine was, the Jewish Agency believed, a preposterous suggestion. Begin thought it was the Jewish Agency that was pursuing a strategy built on delusion.

The Revolt

The fighting youth will not flinch from tribulation and sacrifice, from blood and suffering. They will not surrender until they have renewed our days as of old, until they have ensured for our people a Homeland, freedom, honour, bread and justice.

Menachem Begin

The Revolt, as I shall argue, consisted of a complex of interwoven ends simultaneously pursued by the Irgun Zvai Leumi. Some of the ends pursued, contrary to what Begin argued³ in The Revolt make certain acts and campaigns of the Irgun terrorist. Others were acts of sabotage; still others commando type assaults. Although one might be tempted, then, to describe The Revolt as sabo-terrorism, as I have so described a campaign of the Irish Republican Army, The Revolt was by no means the accidentally developed strategy that the IRA fell into. Of course the utility of particular tactics and what the patterns of response would be were not foreseen in full detail prior to The Revolt, but the sabo-terrorism of the Irgun was so far more sophisticated in conception than that of the IRA as to make them only remotely similar in broad outline.

In discussing the complex of interwoven ends pursued by the Irgun I will divide them into three groups: immediate, mediate and final ends. As a final end the activities of

The Revolt aimed at two states of affairs which, because of certain background beliefs held, were believed to be functionally equivalent to a differently characterized state of affairs. The two final ends were: 'to drive the British from Palestine' and 'to neutralize Palestinian resistance to The Revolt'. If these two final ends were achieved it was believed that a functionally equivalent aim, 'to establish the Jewish State', would be achieved and that the Jews could then muster the force to defend it. Two mediate ends were aimed at. These were: 'to shatter British "prestige"' and 'To create an image of Hebrew strength'. The immediate ends aimed at in the activities of the revolt were also of two kinds, 'the destruction of British power resources' and 'the creation of terror within various populations'. Another broad class of immediate ends, 'to garner resources', were necessary in order to pursue the other two immediate ends and could also at times be characterized as the simultaneous pursuit of one or more of the other immediate ends.

When the leadership of the Irgun chose a particular project it was the result of an analysis performed using a set of what I call 'Intentional Systemic Assumptions' together with a set of 'Physical Necessity Assumptions'. The sophistication of these sets of assumptions, primarily the former, is what makes the sabo-terrorism of the Irgun so different from that of the IRA. In fact it was the failure of the IRA consciously to think out the assumptions that lay behind the S-plan and their unwillingness to admit to them-

selves that they lacked the ability to carry it out as written that led almost unconsciously to the slide into sabo-terrorism.

Menachem Begin explicitly tells us some of the most important Intentional Systemic Assumptions (ISAs), and even some of the Physical Necessity Assumptions (PNAs), used by the Irgun in The Revolt. Heuristically, we can divide ISAs into four broad categories: International Systemic, Political Systemic, Social Systemic, and Psychological Systemic. As we shall see it is the ISAs together with PNAs which form the links between the three interwoven ends in terms of which the rationality of a terrorist or sabotage campaign is to be judged.⁴ The image of the terrorist as a "mad bomber" is, no doubt, sometimes true--but the Irgun's leaders were very sane indeed. Their campaign was, perhaps, the most elegantly diabolical yet conceived.⁵

Begin explicitly discusses the following intentional systemic assumptions which I classify under the categories; 'Level of General World Interest', 'Centrality of "Prestige" to the Methods of British Rule', 'International Systemic Assumptions', and 'The Value of a Legend of Hebrew Strength':

1. Level of General World Interest.

- a. British actions in response to The Revolt would be open to public view.

- b. In particular, Britain could not indiscriminately brutalize the Yishuv without it being of interest to and

known to the general world public; especially the British and American publics.

We knew that Eretz Israel, in consequence of the revolt, resembled a glass house. The world was looking into it with ever-increasing interest and could see most of what was happening inside. (Begin, p. 56)

2. Centrality of "Prestige" to the methods of British rule.

a. British colonial rule in Palestine rested upon an illusory belief of the ruled in British 'omnipotence' together with the confidence of the British public in the power and virtue of that rule.

b. If British prestige were destroyed they would leave, on the best terms they could secure for themselves, rather than make their rule publicly depend upon force.

British Government departments have vast experience of ruling over foreign--especially over backward--peoples. We studied and examined this experience. We learned that in general British officials avoid making their rule dependent on force, but rather on the power of prestige. They know that "you can do anything with bayonets except sit on them". It is much better to sit in their shadow. Consequently, when the British administrators are faced with violent opposition they tend to seek a way out, by foregoing direct rule and substituting indirect British rule...History and our observation persuaded us that if we could succeed in destroying the government's prestige in Eretz Israel, the removal of its rule would follow automatically. (ibid. p. 52.)

3. International Systemic Assumptions.

a. Britain had become, as a result of World War II, a second rate power and the world was dominated by two Great powers.

The War brought about a radical change in the relation of world forces...Great Powers had become second rate...There arose two mammoth State Powers encompassing areas, populations and economic and military resources of stupendous magnitude. (ibid., p. 56)

b. It was in the interest of the Soviet Union that the British colonial system collapse.

The Soviet Union naturally desired the 'bankruptcy' of the British colonial regime in Eretz Israel. (ibid., p. 57)

c. American public opinion could influence the U.S. Government and persuade it to bring pressure on Great Britain. Specifically, a large block of Jewish voters was politically significant and could be motivated to influence U.S. Government policy.

...five million Jews in the United States constituted a substantial factor at elections. (ibid., p. 38)

The extensive campaign of enlightenment conducted by the Hebrew Committee of National Liberation in the United States played an important part in this field. The British Government were very susceptible to American opinion and could not ignore the feelings of their 'rich Transatlantic uncle.' (ibid., p. 55)

4. The Value of a Legend of Hebrew Strength.

a. During the revolt against the British, the Palestinian Arabs could be neutralized as a factor by creating in them an "attitude of respect mingled with fear" by the use of "Jewish arms". (ibid. p. 50) This attitude could be developed in two ways:

(1). Attacks on the British would create an appreciation of the military prowess of the Jews and the Arabs would be warned not to interfere. This together with their memories of earlier Irgun reprisals under David Raziel would create fear of the Irgun and of the much larger Haganah.

(2). Attacks on Arabs would produce the same effect more directly.

I had occasion, in the early days of the revolt, to see for myself the psychological effect among the Arabs of our surprise attacks...When we reached Jerusalem we saw a huge mass of Arabs, gathered in the area between Barclay's Bank and the Post Office, viewing from a more or less safe distance the destruction the Irgun had wrought at the General Headquarters of the Police. We studied them closely. They were dumbfounded. Shimshon again overheard some of their conversation. Their talk was a confused mixture of amazement, fear and admiration. And so it was with all the later attacks the results of which they were able to see. (ibid., p. 49)

We told the Arabs that we had no desire to fight or harm them; that we were anxious to see them as peaceful citizens of the Jewish State-to-be; ...We warned them that it was the object of the British officially to inflame them against us and to get us to fight each other. We hoped earnestly they would not heed propaganda of this kind. If they did, however, and raised a hand against the Jews, we would have no option but to move against them with all dispatch and severity. (ibid., pp. 49-50)

If the Irgun 'dissidents', [the Palestinians] argued, are so strong, if this relatively small rebel force cannot be put down by the mighty British, what must be the strength of the 'seventy thousand' of the Haganah. Thus each new attack on the forces of the oppressor fortified amongst the Arabs the legend of Jewish military might. (ibid., p. 51)

What if anything gave [the Arabs] pause was the memory of the pre-war retaliatory operations of the Irgun Zvai Leumi under the command of David Raziel. (ibid.)

b. The Palestinians lacked the leadership to overcome the fear and mount an effectively organized armed resistance to the Irgun's aims.

Only after the United Nations organization had come to its decision on the future of Eretz Israel...did the Arabs raise their hand against us. They did so because they were promised that the regular armies of the Arab States would be thrown in the battle to vanquish or destroy the Jews. (ibid., p. 50)

c. Fear and respect for the abilities of the Jews could be a potent element of strength in any armed clashes between Jews and Arabs.

Spiritual and psychological factors are very important, sometimes decisive, elements in a fighting force. One of them is the legend that goes before the fighting force, e.g. that it is a 'terror to its enemies', that it 'always wins', that it is 'unconquerable' and so on. (ibid.)

Understood in terms of these ISAs we can see that, to the extent that it was planned and controlled by the leadership, each Irgun operation was immediately either a terrorist or sabotage act, or a commando assault (perhaps in certain cases two of these simultaneously) which was part of a campaign designed to achieve their final end (functional-equivalently described) by means of their mediate ends. I turn now to several Irgun operations to illustrate this.

Some Irgun Terror Tactics of The Revolt

Warning!

A Hebrew soldier, taken prisoner by the enemy, was sentenced by an illegal British military "court" to the humiliating punishment of flogging.

We warn the occupation Government not to carry out this punishment, which is contrary to the laws of soldiers' honour. If it is put into effect--every officer of the British occupation army in Eretz Israel will be liable to be punished in the same way: to get 18 whips.

Irgun wall poster, Menachem Begin

By November, 1946, The Irgun had succeeded in denting British prestige, having destroyed several British power resources, for example the blowing up of immigration offices and police stations. A turn to terror might now be useful,

such tactics would quite readily foster an image of Hebrew strength. One doesn't fear the weak. This would enhance the already existing anxiety within the British leadership within Palestine and might be exploited to further dim British prestige. The targets were British policemen and soldiers. The means of force employed were trap bombs and road mines. In early November three policemen and a soldier were killed in a trap bomb explosion in Jerusalem. On November 17th four more policemen and an RAF sergeant were killed by an Irgun road mine outside Tel Aviv. These were the bloodiest incidents; other road mines were exploded throughout October and November. Although Begin does not explicitly discuss the psychological systemic reaction that was expected from such operations, it was most likely obvious to him as it is to us that such tactics would cause terror in those directly attacked, quite a bit of anxiety to other British policemen and soldiers conducting patrols similar to those attacked, anxiety within those British officials responsible for maintaining order within Palestine, perhaps shock and outrage in Great Britain. That such terror and anxiety provoking attacks would draw British prestige-denting attention both within and without Palestine and would enhance the image of Irgun capability both among the British and the Palestinian Arabs must also have been expected and intended. In this way the October and November trap bomb and road mine attacks were seen as integral to the conception of The Revolt as outlined above.

The enhanced image of Hebrew strength created was quickly exploited. In December two Irgun members were sentenced to eighteen years in prison for their part in an Irgun resource collecting bank robbery in September. They were also sentenced to "receive eighteen strokes of the cat". (Bell, 1977, p. 184) The Irgun was not prepared to accept this treatment of the prisoners both because of the effect it might have within the Yishuv as a whole and most especially within the ranks of the Irgun. Acquiescence to such treatment by the British would have run directly counter to the mediate end of The Revolt 'To create an image of Hebrew strength.'

What was the purpose of this bestial punishment? Did the regime want to demonstrate that it regarded us as natives; that it would teach these impudent Jews in the orthodox fashion how to behave towards their benevolent masters? Manifestly here was something that affected the whole family of rebels. (Begin, p. 231)

In response the Irgun first warned the British not to carry out the sentence to whip the prisoners. The wall poster authored by Begin and heading this section was pasted up throughout the Mandate. When the British carried out the sentence on one of the two Irgun prisoners, the Irgun responded by kidnapping a British major and three sergeants, presenting each with a present of "eighteen whips", and then releasing them. They followed this up with a new warning:

If the oppressors dare in the future to abuse the bodies and the human and national honour of Jewish youths, we shall no longer reply with the whip. We shall reply with fire. (Begin, p. 234)

The British attempted to induce the other Irgun prison-

er under sentence to be lashed, Katz, to make a statement that he was too weak to bear the punishment. He refused. The British then announced an amnesty for seventeen prisoners, sixteen Arabs and Katz. Unimpressed with this maneuver, "the world press had a field day with the British humiliation." (Bell, 1977, p. 185) The warning, together with the image of strength previously fostered, had induced the British to back down and British prestige suffered immensely. The Irgun terror had paid a huge dividend in terms of the mediate end 'to shatter British prestige'. But had it not paid in the way it did the Irgun would have followed through in its warning that British men would pay with their lives for a Katz whipping. And this, too, would have served both mediate ends of The Revolt.

Shortly after the whipping humiliation the British decided to shelter themselves within security zones. The British set up barbed wire enclosed, barricaded sections in Palestine and began to isolate and protect all British personnel within them. All cinemas and all cafés were placed out of bounds to British personnel. These moves only played into the Irgun's plan, for within such enclaves the British could hardly portray the 'omnipotent' ruler, just what the Irgun had been trying to deny to them.

Approximately three weeks after the announcement of the withdrawal to enclaves, Lieutenant General Sir Evelyn Hugh Barker, the general officer commanding in Palestine, confirmed the death sentence of Dov Gruner, received for his

part in an arms raid on the Ramat Gan police station. The Irgun countered by capturing a retired British major and a British judge in order to bring to the center of British attention the hanging for a hanging warning which they had issued the previous year. The British declared curfews in Tel Aviv , Jerusalem, and Haifa and threatened to declare martial law. The Jewish agency was informed that Gruner's sentence would not be carried out and the Irgun released the two prisoners. The Irgun then decided to carry out an intensive set of operations, provoke the threatened martial law and then see if they could continue to carry out operations under martial law conditions. They felt confident that their 'Level of World Interest' and 'Centrality of "Prestige" to the Methods of British Rule' assumptions were correct. If the Yishuv were protected from crushing counter-terror by these intentional systemic features of Mandate political reality, then martial law would not crush The Revolt and the failure of martial law to do this would lead to further gains in terms of both of the mediate ends of their strategy.

On March 1, 1947, the Irgun carried out sixteen major operations, the most shocking of which was a terrorist attack on the British officers club in Goldschmidt House. The Irgun pierced the barriers surrounding the security zone within which the officers club was located. Irgun men rushed the club and tossed in satchel bombs bringing much of the building down over the heads of fifteen people. The

operations on that day terrorized, stunned and shocked the British. "The newspapers listed the total casualties on Sunday morning as twenty killed and thirty wounded, with more to come." (Bell 1977, p. 190) British prestige suffered a shattering blow at home, the Sunday Express screamed, "GOVERN OR GET OUT", paying larger dividends perhaps sooner than the Irgun had expected. Be that as it may, the terror had succeeded in provoking the desired response: the British imposed the expected martial law that Sunday and the British general commanding Operation Elephant, a ten thousand man cordon and search operation in Tel Aviv, "explained to newspaper correspondents that martial law would continue until the terrorists had been run to earth."

(ibid.) The Irgun could now attempt to conduct operations which, if successful, would continue to both shatter British prestige and build the legend of Hebrew strength.

The Irgun wounded five soldiers and four civilians in three separate attacks the following Monday, March third. They carried out similar attacks on March fifth and also that day, in an armed assault operation, destroyed the Municipal Assessments Office in Haifa. On March eighth they conducted three assault operations within the security zones in Tel Aviv, attacking three buildings. A terrorist attempt on the life of the commanding officer of the Third Infantry Brigade was also carried out on March eighth but the general was not killed "when his staff car was blown up under him." (ibid., p. 191) Additional assaults were carried out on

buildings within the security zones on March twelfth. On March 17th martial law was lifted. The Irgun's assumptions had withstood the test; the British would not crush the Yishuv and so they could not stop The Revolt. By demonstrating that they could continue to carry out terror attacks and mount assault operations in the heart of the security zones the Irgun had beaten martial law. The immediate ends were well served. "Churchill, speaking in the Commons, was not alone in wanting to know how long this squalid warfare with all its bloodshed would go on."

(ibid.) The legend that the Jewish fighting force "always wins", that it is 'unconquerable' was most assuredly given a boost.

The British provided the opportunity for a stunning Irgun terrorist act. On July 29, 1947, the British carried out the executions of three Irgun men who had been captured during an Irgun prison break operation at Acre prison. Although the British had suffered no one killed in this operation the British had sentenced the men under the provisions of military rule making it a capital offense to discharge firearms or be a member "of a group of persons who carried arms and deposited mines." (Bell 1977, p. 223) The Irgun captured two sergeants of the Palestine Police intelligence branch and warned that whatever happened to the Irgun prisoners would happen to them. The British authorities recognized that were they to give in to the Irgun blackmail, again, they would suffer a further loss of pres-

tige but the Irgun did not believe that the British would carry out the executions. The British appear to have reasoned that giving in to the threats "would be a public concession of impotence"; they carried out the executions.

The Irgun concluded that the British were in extremis: forced to try to use the looming fear of the gallows to break The Revolt. They concluded that it was the British who were more in a position to be broken in this fearful game.

The British Government believed that by breaking the spine of prisoners of war they would break the back of Hebrew resistance. Hangings, hangings, and still more hangings! But the question was--as Lenin once put it--who would break whom? There is no doubt that had we not retaliated, avenues of gallows would have been set up in Palestine and a foreign power would be ruling in our country to this day. The grim act of retaliation forced upon us in Nathanya not only saved scores of Jewish young men from the gallows but broke the back of British rule. When gallows are shattered the regime which rests on them must inevitably crash. (Begin, p. 290)

The British sergeants had to be hanged. To fail to do so in the face of the British response to their warning would have put the lie to the Jewish legend that they were trying to build, that they are 'unconquerable' and a 'terror to their enemies'. Further, as The Revolt was a war of liberation, as they had always portrayed it, the British use of the gallows could not be unanswered; to acquiesce in their men being hanged as criminals put a lie to their status as legitimate freedom fighters. A terroristic reprisal would provide grist for the propaganda mill. An Irgun writer, Samuel Katz, said as much in the Irgunpress:

We recognize no one-sided laws of war. If the British are determined that their way out of the country should be lined by an avenue of gallows and of weeping fathers, mothers, wives, and sweethearts, we shall see to it that in this there is no racial discrimination. (quoted in Bell, 1977, pp. 236-7)

The Irgun hung the two sergeants in Nathanya, where they had been kept hidden below a diamond factory. They were then smuggled in the trunk of a car to a nearby grove and strung up by their necks on Eucalyptus trees. The access road to the grove was mined. The British were careful in retrieving the bodies, cutting them down with a knife on a pole and dragging them away with ropes. One of the bodies struck and exploded the land mine as it was being dragged from the grove. The horrified reactions provoked by this action were most probably foreseen and intended by the Irgun.

The Irgun response to the July twenty-ninth hangings were terrorist actions in two ways. In the first way, following the Katz logic, they were 'propaganda of the deed', intended to create intense fear in a few and empathetic reactions among many which the world press could be expected to sensationalize. Once in the limelight the Irgun could explain how the British were in the wrong and their reprisals were legitimate reactions. In the second way, the Irgun could expect the empathetic horror reactions, given the already accumulated blows to British prestige, to deliver another smashing, perhaps the telling, blow to British prestige in Great Britain itself. Given the intentional systemic assumptions that, within the British isles, British

prestige required British rule to appear to be both powerful and virtuous and that Israel remained a glass house, only hangings as a result of due process of law remained as an instrument of coercion with which Britain could hope to break The Revolt. The terrorist-reprisal hanging gruesomely brought to the attention of the astute that the British had very few options left. The Manchester Guardian wrote, "Time to Go."

Irgun sabotage and commando assault operations.

The prototypical exemplar of a terrorist act, as I shall argue in chapter two is one in which the act is done with intent to provoke terror, an extreme fear or dread, within some particular group. Groups employing such methods have not generally been forthcoming in admitting that they in fact have aimed at provoking this terror. With the Irgun examples I have suggested that certain statements by Irgun spokesmen should be interpreted as showing that they aimed at this end or that common sense psychology would indicate that they must have been aware that terror would be provoked by certain types of operation and to have actually intended to provoke this terror best connects such acts actually chosen with the strategy of The Revolt. Doubt that the Irgun leadership had the relevant intentions would cast doubt on whether certain of their operations were prototypical terrorist acts.⁶ For the other typical Irgun operations, sabotage and commando assaults, it is possible to

connect the immediate end of the operation directly to the strategy of The Revolt without psychological systemic assumptions about how terror is provoked. The explicit intentional systemic assumptions underlying The Revolt outlined above are, for the most part, sufficient to show how by intending only to destroy or disrupt the use of British power resources the Irgun believed that they were making significant progress toward the goal of establishing the Jewish State.⁷ These two ends were, quite obviously, believed to be linked through the 'Centrality of Prestige to the Methods of British Rule' assumption.

The Irgun and LEHI carried out joint sabotage operations against RAF airfields at Lydda, Kfar Sirkin, and Qastina on February 25, 1946. In all three operations small units of Irgun men, operating under cover of darkness, intended to surreptitiously slip into aircraft hangerage areas, blow up as many British aircraft as they were able, and then slip away. All three units for the most part succeeded in exactly what they had intended. One Irgun man was killed when RAF guards fired in the direction of the teams withdrawal at Qastina. No other losses were suffered. The British admitted that they lost three Halifax bombers destroyed and eight damaged, seven Spitfire fighters destroyed and one damaged, and five light aircraft destroyed.

Another sabotage operation was that on the Palestine railway system on April 2, 1946. "Five bridges were blown along the twelve kilometers of track between Rehovot and

Ashdot, where the station was destroyed. The railway between Haifa and Acre was cut." (Bell 1977, p. 159) The Irgun men had been able to steal into their positions and carry out the operations but in their attempts to withdraw, many were caught by the British in a huge ambush ring that had been set up "around the entire area south of Rehovot." (ibid.)

The Irgun's commando assault operations were identical in end to that of their sabotage operations, the destruction or disruption of British power resources, differing only in manner of attack. Rather than depending on surreptitious approach and withdrawal, they organized their commando attack teams into covering and assault elements. The attack on the Schneller building was undertaken as part of the Irgun campaign to demonstrate the futility of martial law. It was attacked because it was located within a British security zone. As such its destruction under martial law conditions was a humiliating blow to British prestige. The actual operation itself was quite adequately described for our purposes by J Bowyer Bell:

Led by Yehoshua Goldschmid, the Hok team [Hok was an Irgun sub-organizational division] first broke through the peripheral fortification, cut through the wire, blew up a protective wall, cut through the inside wire, and rushed the building. Once inside, explosives charges were set, while covering units outside kept off British reinforcements. The Irgun withdrew and the charges exploded, gutting the Schneller Building. (Bell 1977, p. 191)

Conclusion

The elegance of The Revolt, as I have tried to show, consisted in the skill with which the Irgun leadership wove a strategy out of their belief that causal relationships held, as a result of an intentional systemic analysis, between their immediate, mediate and final ends. Precisely to what extent these assumptions were true and to what extent The Revolt contributed to the establishment of the State of Israel is not my concern. Both The Revolt and the IRA campaigns that I have discussed utilized various conceptually distinct power strategies. In my judgement there were men of the Irgun who were terrorists, saboteurs and commandos. Members of the IRA were also terrorists and saboteurs and, although the campaigns of the Irgun I have discussed do not show it, members of both the IRA and the Irgun were soldiers. In the next chapter I turn to the task of showing how one makes these noms de guerre stick.

Endnotes:

1. On Unionist beliefs about the likely results of unification with the South see O'Malley, chapter 4. On the tendency of this attitude to erupt into violence see Doumitt, passim, but especially chapter VIII; also see O'Malley, p. 140, and see Bell 1983 for a discussion of the Orange pogrom of 1969.

2. See McAllister and Rose for an illuminating discussion of this point.

3. Begin argues in The Revolt, pp. 59-61, that the Irgun was not a terrorist organization because they aimed at freedom for their people and the revolutionary overthrow of a tyranny. "A revolution, or a revolutionary war, does not aim at instilling fear. Its object is to overthrow a regime and to set up a new regime in its place. In a revolutionary war both sides use force. Tyranny is armed. Otherwise it would be liquidated overnight. Fighters for freedom must arm; otherwise they would be crushed overnight. Certainly the use of force also wakens fear." (Begin, pp.59-60) On these grounds Abu Nidal could also claim not to be a terrorist organization. This may perhaps be the origin of that infamous slogan 'One man's terrorist is another man's freedom fighter.'. As I shall argue in chapter 2 the nature of the final end at which the use of "force" is aimed cuts no logical ice as far as whether a particular act or campaign is terrorist or not. It may, of course, as in war, be very relevant in the moral evaluation of the terrorist act.

4. This point is developed in abstraction as part of the definitions of 'sabotage' and 'terrorism' given in chapter 2.

5. The phrase is chosen to indicate the skillful nature of the use of terrifying means. I believe that an act can be defined as terrorist while leaving open the question of its moral rightness or wrongness. See chapters 2 and 3.

6. This does not, as I shall argue in chapter 2, cast doubt on the propriety of such acts properly still being called terrorist acts.

7. A British soldier or a British policeman could be viewed as a "power resource". The killing of such men could then be viewed as the destruction of a British power resource. Such an act might be aimed not at creating any terror within a population but only at this destruction with a view to how doing so might serve another end, such as the Irgun's mediate end 'To create an image of Hebrew strength. Lacking an intent to create terror such an act, done in a certain way and in certain circumstances, might seem conceptually to be more an act of sabotage than terrorism. But as I shall

argue in chapter two both 'sabotage' and 'terrorism' are cluster concepts allowing a degree of overlap in their use and such that intent to create terror is not a necessary condition for the use of the term 'terrorism'.

And usage does not reject this broader meaning of the word. If, to be sure, the term 'war' is at times limited to public war, that implies no objection to our view, since it is perfectly certain that the name of a genus is often applied in a particular way to a species, especially a species that is more prominent.

I do not include justice in my definition because this very question forms a part of our investigation, whether there can be a just war, and what kind of a war is just; and a subject which is under investigation ought to be distinguished from the object toward which the investigation is directed

Hugo Grotius

Colonies do not cost much, and with little or no expense a prince can send and maintain them; and in so doing he offends only those whose fields and houses have been taken and given to the new inhabitants, who are only a small part of that state; and those that he offends, being dispersed and poor, cannot ever threaten him, and all the others remain on the one hand unharmed (and because of this, they should remain silent), and on the other afraid of making a mistake, for fear that what happened to those who were dispossessed might happen to them.

Machiavelli

Introduction

What is it about the activities of the Irgun and the IRA that makes it correct to say that they engaged in terrorism? Are these activities essentially the same as those of the Committee of Public Safety during the Reign of Terror during the French Revolution which is when the term 'terrorism' first was used? (OED) Would it be shocking if an investigation of what is common in the occurrences people point to as terrorism showed that there are important similarities between these occurrences and such things as nuclear deterrence and the punishment of criminals? Perhaps initially it would be, but it need not remain so.

Commonly it is supposed that terrorism is immoral by definition. But there is prima facie immorality and absolute immorality. When we say that something is prima facie immoral we mean something like "other things being equal". But things aren't always equal, especially with respect to an occurrence as complicated as terrorism can be. In our moments when we are most outraged by the latest terrible deed of some terrorist organization we are tempted to suppose that terrorism is by definition absolutely wrong. We may be inclined to suppose it means something like, 'the doing of terrible things for immoral ends'. But it would be wrong to succumb to this. Doing so diverts our eyes from the relevant features of terrorism that can be used to guide empirical research and moral investigation. It can land us in the intellectual morass in which we proclaim, "One man's terrorist is another man's freedom fighter."

To avoid this morass, I provide in this chapter an explication of the nature of 'terrorism' satisfying the following four conditions which can be thought of as ensuring intellectual rigor in our moral and empirical investigation of terrorism:

1. Ideally an explication of this concept should be acceptable to both the terrorist and the victims. As a practical test of this requirement one can think of it as requiring that the explication of 'terrorism' should dissolve the claim that "One man's terrorist is another man's freedom fighter."

2. It should not be surprising if the explication turns out to be in harmony with the common sense assumption that terrorism is a bad thing by including features that many people consider to be at least prima facie wrong, but definition alone should not settle the moral evaluation of terrorism, as such. However, specific types of terrorism may include features that are not necessary features of terrorism, as such, that do, or nearly do, settle the moral evaluation of those types of terrorism.

3. The explication of the nature of 'terrorism' should capture the complexity of some of the occurrences people point to as occurrences of terrorism while allowing for the fact that not all occurrences of terrorism have this complex structure.

4. The explication should be heuristically useful to social scientists as well as to moral philosophers.

In providing an explication of terrorism which meets these four conditions I have discovered that terrorism is in many ways analogous to lying. It is generally recognized that statements intended to deceive are prima facie wrong. But an overly general moral principle such as 'It is always¹ absolutely wrong to lie' has, as Sissela Bok has argued, frequently led into a kind of intellectual morass. With an overly general blanket moral prohibition used as the criterion to judge the morality of lying, persons turned to such muddled thinking as claiming that an intentionally deceptive statement, if accompanied by a mental reservation isn't a

lie and that intentionally deceptive equivocation isn't lying. If such maneuvers were initially used to justify intentionally deceptive statements in those situations in which common sense morality seems to allow them, they are easily adaptable to other situations where common sense morality does not allow them. The result of such maneuvers to get around an overly general moral prohibition is intellectual confusion about the criteria for determining what a lie is as well as the loss of any real criteria for assessing the morality of specific cases of lying.

Neither could Machiavelli have made his empirical claims about the effects of lying in The Prince nor could any progress have been made in illuminating the relevant considerations to be used in judging the morality of lies if the morass of confusion about lying had been allowed to degenerate to the point where people seriously advanced an obfuscation such as "One man's liar is another man's benefactor." And yet we appear at the verge of allowing this to happen to the concept of terrorism.

If we insist that terrorism should by definition be absolutely immoral then inevitable disagreements about the actual moral judgement to be made about an occurrence of terrorism are bound to lead to disagreements and confusions about what in fact terrorism is to the detriment of both empirical inquiry and moral investigation. But by adopting the explication of terrorism given here we are free to focus on the relevant features of terrorism with a view to making

advances both in empirical generalizations as well as to discover that perhaps there is more widespread general agreement than we at first supposed, even though we may not always agree on the application of moral criteria of judgment to specific cases or even on the precise nature of the moral criteria.

Philosophers and theologians have long argued that there are many classes of lies and only some of them are morally forbidden. Others are considered inconsequential, or excusable, or permissible, or even obligatory. We have names for many of these kinds of lies such as "white lies", "tactful lies", and "jocose lies". (Bok, chapter 3.) In addition to such categories the general features of the definition of lying provide variables in terms of which one can specify categories of lies. For example, if lies are "statements intended to deceive" (Bok), then the definition of lying includes the concept 'statement' as one of its features. Focusing on this feature allows us to make the distinction between "half-truths" and "untruths". The feature of including a person to whom the statement is addressed and intended to deceive provides such categories as "lying to enemies" and "lying to liars" and the feature of occurring in the context of background knowledge assumed to be known by both the liar and the person lied to allows us to make the category of "bald-faced lies".

I take it as an advantage and an advance that 'terrorism', as I explicate it, is parallel to lying in being prima

facie wrong. If we straight-forwardly recognize this fact and are prepared to entertain the possibility that there is perhaps "innocuous terrorism" as a companion to "white lies" and "obligatory terroristic intimidation" as a companion to "a duty to lie" we shall not be subject to confusion and self-doubt if a terrorist whom we readily recognize as such offers as his apologetic, "You see you are really very much like me in what you do."

I have been unable to formulate a simple definition of 'terrorism' which satisfies the above four conditions. The range of occurrences to which people refer when they use this term is too vast to provide a simple and heuristically useful definition of the entire range. However I do provide a definition which is heuristically useful because it is rich in features. By means of this feature rich type of terrorism we can identify the whole range of occurrences people call terrorism and justify their usage. I call this full featured form of terrorism 'prototypical terrorism'. 'Terrorism', as I explicate it, denotes a range of closely related occurrences which have all or some of the features found in prototypical terrorism. The primary methodology of this chapter is an examination of cases in terms of the features of prototypical terrorism. This methodology serves three purposes. The first is to show that there are less full-featured forms of terrorism than prototypical terrorism. I call these less full-featured forms of terrorism 'derivative terrorism' to indicate that it is appropriate to

recognize them as forms of terrorism because they possess some but not all of the features found in prototypical terrorism. The second is to show how to develop a typology of terrorism using the features of prototypical terrorism as variables. The final purpose is to show how the definition of prototypical terrorism can serve as a useful tool of empirical research serving as a heuristic device indicating what features to look for when one investigates an occurrence of terrorism.

This is how I define 'prototypical terrorism':
def

Prototypical terrorism= An occurrence in which one or more persons exercise power over (or use power resources to affect) the members of some target population so as to cause terror in the members of some audience population in order to bring about (or prevent) political, social, and/or economic changes as a means of furthering some END.

In order to have a better understanding of terrorism we need to examine the general features that are contained in the definition of prototypical terrorism. We will then be able to discover what features are necessary features of any kind of terrorism at all and which may be lacking in an occurrence which is not prototypical but derivative terrorism. These are the features which are contained in my encapsulated definition of 'prototypical terrorism':

1. There are persons, supra-personal entities and, perhaps, sub-personal entities interacting in various ways. A person is a familiar type. What I mean by a supra-personal entity is some interrelated regularly functioning aggregate of persons of the well known types: nations, political parties, social groups, labor unions, stock markets and the

like. Sub-personal entities are the sub-personal systems: emotional system, cognitive system, skeletal systems, cardiovascular systems and the like. I assume that the existence of cardiovascular systems and skeletal systems is non-controversial but that the existence of emotional systems and cognitive systems is more so. Thus the definition of 'prototypical terrorism' can be thought of as either including sub-personal entities or one can do without sub-personal entities and use instead the concept of 'states of persons'. One or the other of these must be thought of as a feature of 'prototypical terrorism' because the most centrally important feature, the one which more than any other makes 'prototypical terrorism' prototypical of terrorism is the emotional state of a person known as terror. Because terror is such a centrally important feature I have reviewed some of the important literature on the emotions and cognitions and include a summary of what in my judgement is the best available account of the emotions and how they are related to cognitions. My review of the available literature leads me to conclude that empirical research would be best served by positing the existence of sub-personal emotional systems and cognitive systems and I think of the encapsulated definition as including such entities but one need not. One may simply make do with the intuitive notion of emotional and cognitive states of persons.

2. Prototypical terrorism involves several classes of persons and supra-personal entities that we may call 'the

players'. These are: 'the terrorist leader', 'the terrorist agent', 'the target population', 'the audience population', and 'the supra-personal target'. Rather than defining these players, below I will illustrate what role each plays through an analysis of a particular stage of the IRA's struggle by means of the conceptual framework provided by the unpacked definition of 'prototypical terrorism'.

3. Encapsulated within this definition are numerous states of affairs that the terrorist leader intends to bring about. I call these states of affairs 'ends'. In prototypical terrorism there are at least three well conceived states of affairs the first of which is also a means to the second and the second of which is also a means to the third. I call these the 'immediate end', the 'mediate end' and the 'final end' or 'END'. The immediate end is to cause a state of terror in the members of the audience population. The mediate end is either to bring about or prevent changes in the supra-personal target. The END is some state of affairs that is believed to result from the accomplishment of the mediate end. In prototypical terrorism the immediate, mediate and final end are non-identical. But, of course, since 'derivative terrorism' by definition lacks certain features of 'prototypical terrorism', all occurrences of terrorism do not have all three of these ends.

4. The terrorist leader and/or the terrorist agent both exercise some kind of 'power' and/or use some kind of 'power resource'. The concept of power is as centrally

important a feature of prototypical terrorism as 'terror' and so, as with the emotions, I have reviewed the literature on this concept and have thought it important to present a general discussion of the important concepts of 'power relationships', 'power resources', 'having power', 'exercising power', 'power tactics' and 'power strategies'. In prototypical terrorism the exercise of power has one centrally important result: the members of the target population are killed and this is what is intended to generate terror in the audience population.

5. The terrorist leader holds a set of 'background assumptions' that consists of his beliefs about how the various entities function and are interrelated such that an act or acts of the terrorist leader will lead to the END. Because these assumptions concern the functioning of what Daniel Dennett² has called "intentional systems", I call these 'intentional systemic assumptions'. The terrorist leader's or the terrorist agent's background assumptions also include various assumptions about physical reality the most notable of which are the assumptions about what sorts of effects various power resources such as bullets and bombs can generate. I call these latter background assumptions 'physical necessity assumptions'.

Now let's apply this analysis to some examples from chapter one in order to see how what we know about them fits

into this pattern and also in order to see how the definition of prototypical terrorism can guide us in making inferences about what terrorists have been trying to do.

The Tan War Revisited

The Tan War is the name given to the period of about September 1916 to July of 1921 culminating in the partition of Ireland. The immediate impetus for this concerted effort to drive the British from Ireland was the April 9, 1916, bill in the British Parliament granting the Prime Minister, Lloyd George, discretionary power to apply conscription to Ireland.

In one stroke the bill united every Irish faction. The bishops at Maynooth were appalled; a general strike was called for April 23; young men flocked to the IRA in droves; and sedition was spoken on every street corner. (Bell 1983, p. 18.

Earlier in the year two thousand delegates of the political organization known as Sinn Féin had met and formally adopted the aim of establishing an Irish Republic. At this same time 250 of the delegates met in an Irish Republican Army Convention and named Michael Collins director of organization. The British held Sinn Féin responsible for the Irish reaction to the conscription bill and arrested over 70 prominent members of the organization almost immediately. Lesser individuals continued to be arrested at a high rate; in 1918 over 1000 were arrested. On August 15, 1918, the first issue of an tOglágh, the IRA newspaper appeared. An early article by Ernest Blythe, called "Ruth-

less Warfare" appeared in the paper and urged that "all...having assisted the enemy must be shot or otherwise destroyed with the least possible delay". (quoted in Bell, 1983, p. 18) When World War I ended in November of 1918 Sinn Féin decided to contest for the Irish seats in the British Parliamentary election set for November and then to boycott Parliament and meet instead as the Dáil Éireann, the National Assembly of Ireland. They won 73 of 75 seats and met, declared a republic and voted a constitution on January 21, 1919.

The Dáil set about providing an alternative government-al structure throughout Ireland with courts, local government bodies, police and tax officials and the IRA set about the task of neutralizing the Royal Irish Constabulary. This they succeeded in doing by assassination. "By the end of 1919 the RIC was intimidated. Barracks had to be abandoned, recruitment had plummeted, the whole force was uneasy." (ibid., p. 21)

The character of the strategy did not alter when the RIC was replaced with the motley Black and Tans whose patrols became subject to ambush and whose individuals were the object of assassinations. These terrorist attacks continued throughout 1920 and 1921 while the Dáil continued exerting administrative control wherever they could through their shadow government. The final blow to the administration seems to have been a sabotage attack on the Customs House in Dublin on May 25, 1921. This building housed nine

British administrative departments and the IRA succeeded in burning it to the ground. With the RIC eliminated through terrorism, the Black and Tans intimidated and now with the seat of administrative control and all the paperwork contained therein destroyed Lloyd George proposed a peace conference.

Although we have no records of the discussions that took place in the councils of the IRA we have sufficient evidence to provide a good bit of fleshing out of the features of prototypical terrorism as they relate to The Tan War. It should be clear enough from "Ruthless Warfare" and the consistent nature of the strategy pursued that the central leadership of the IRA, Michael Collins and others including perhaps Ernest Blythe, conceived that there was a strategy of terror which would help to force the British out of Ireland. Let Collins and these others be the terrorist leaders. In addition to the central leadership of the IRA there were many followers who carried out the ambushes and assassinations of the constables. Let these men be the terrorist agents.

During the initial stage of attacks on the RIC the target population consisted of those particular unfortunates specifically identified at a time and a place by the direct inputting agents as constables. The audience population consisted of any RIC member who was not immediately a target as well as anyone contemplating joining the RIC. The supra-personal entity that the IRA sought to affect was the Brit-

ish administrative control apparatus. The immediate end was to instill in the audience population great fear of death at the hands of the IRA. The mediate end was to shatter the RIC as a power resource of the British as part of their campaign to shatter the British administrative control apparatus. The final end was to drive the British from all of Ireland and extend Sinn Féin administrative control over the entire island.

The terrorist leaders must have exercised political authority over the direct inputting agents. Recalling that Sinn Féin had won an overwhelming portion of the seats contested for in the Parliamentary elections and that the IRA convention had consisted of delegates who were also Sinn Féin members meeting at the same time and adopting a Republican Constitution, it is quite reasonable to hypothesize that the typical IRA foot soldier of the time must have considered his leaders to be exercising legitimate political authority. Thus the terrorist leaders were able to put their policies into effect by exercising authority. The typical IRA foot soldiers, the terrorist agents used the power resources of bullets and bombs to directly affect the target population.

Exactly what the background assumptions of the terrorist leaders were is more difficult to discern because there is no readily available source of them such as Begin provides for us for the Irgun in his book The Revolt. But speculation concerning these matters yields some reasonable

hypotheses. The reception in Great Britain itself of the extremely harsh treatment meted out to the perpetrators of the Easter Rising had been very negative. The leadership of the IRA may have hypothesized, much as Begin explicitly tells us that he did, that the British would be restrained by public opinion from brutally crushing the IRA terror tactics. Even if they did not initially form this assumption, experience soon proved it to them and they relied on it and used it to play the world press against British counter-terror when it did break out. Another key assumption was that the RIC was a key element of the British control apparatus and that if this and other elements of this apparatus were denied to the British that the British, given that they were restrained by public opinion from crushing the resistance would have to leave because this would make Britain appear unable to govern Ireland which would be a terrible blow to British self-esteem. Again this is very similar to an assumption that Begin made in The Revolt, one I have classified under the category of 'The centrality of prestige to the methods of British rule. Of course it should not be surprising that this assumption should turn up explicitly in Begin's set of background assumptions, as he readily admits to having studied the Irish resistance in preparation for his own campaign. That the IRA was operating under this assumption is borne out by the way in which the IRA focused on intimidating the RIC and later the Tans and how it fits with the related sabotage

operations in which they systematically destroyed police stations and later the Customs House. Finally, it is reasonable to suppose that the IRA leadership assumed that they could dissuade Irishmen through terror from being willing to be members of the RIC and that this would lead to the collapse of this arm of the British administrative apparatus. This proved to be an incorrect assumption as this arm was quickly replaced with the Tans. Additionally the IRA then as well as now are engaged in muddled thinking about how the mediate end will lead to their END. What the IRA consistently fails to analyze clearly is the Orange factor. The control of all of Ireland, as is well known now to all but fanatics, will not automatically fall into the hands of Sinn Féin or any republican party with the withdrawal of British power.

If I am justified in attributing all of the above features to the intimidation of the RIC that took place at the early stages of the Tan War, then clearly there were many occurrences and acts of prototypical terrorism that took place in Ireland during this period. But during this and later stages of the IRA's struggle other tactics such as sabotage, commando assault, and military operations were used that, although similar to prototypical terrorism in many features, are not identical to it. I conclude this introduction by offering definitions of these other tactics in their pure forms but it should not be surprising if it should turn out that derivative forms of terrorism overlap

with these tactics. The remaining sections of chapter two are devoted to a detailed investigation of the role of each of the major features of prototypical terrorism in order to show that there are many derivative forms of terrorism lacking one or more of these features as well as to show that there are many kinds of prototypical terrorism depending on variations possible within each of the features. I investigate these issues by asking the following questions:

1. What kinds of power are utilized?
2. Who intends to cause the terror?
3. How great is the terror
 - a. intended?
 - b. created?
4. Who is the target population?
 - a. How is it related to
 - (1) the terrorists?
 - (2) the audience population?
5. Who is the audience population?
 - a. How is it related to
 - (1) the terrorists?
 - (2) the target population?
6. How is the mediate end conceived?
 - a. What are the exact
 - (1) social
 - (2) political and/or
 - (3) economic changes sought?
7. What are the background assumptions linking the mediate end to the immediate end and final end?

The following definitions are of three important tactics related to terrorism. Scrutiny of the features contained in the definitions of these tactics would likely indicate that there are derivative forms of them just as there are derivative forms of prototypical terrorism. It

would also show that they share many of the same important features that prototypical terrorism contains so it is not surprising that there are people who will call acts of all these different kinds acts of terrorism also. I take this to be good evidence that 'terrorism' is now hazily used very close to the way that I explicate it. My explication has the virtue of clarifying this seeming maze of confusion and showing how to make sense out of it.

def

Act of sabotage= An act intended surreptitiously to destroy or disrupt the power resources of another agent in order to bring about or prevent social political or economic changes in order to achieve some END.

def

Commando Assault= An armed operation conducted by small teams of fighters organized into covering and assault units working in concert intended to destroy or disrupt the power resources of another agent in order that social, political, or economic changes will result in order to achieve some END.

def

Military Operations= The use of armed (i.e. equipped with implements of destruction,) forces (typically units of an army navy or air force) of a large supra-personal entity (typically a nation-state) intended to bring about or prevent social, political, or economic changes in some other supra-personal entity in order to achieve some END.

Seven Major Features of Terrorism

I now turn to the task of scrutinizing in detail the seven major features of prototypical terrorism. Two tasks are pursued in scrutinizing these features. The first task is to determine concerning each feature whether we would still call an occurrence 'terrorism' which lacked just this feature of the prototypical occurrences and which of these features an occurrence must have to still derivatively be an

occurrence of terrorism. Obviously the latter part of this first task must be reserved until all of the features have been singly dealt with.

The second task is to indicate how the features are also variables and that variations among these features yield different categories of both prototypical and derivative terrorism. As a practical matter one cannot provide a full taxonomy of terrorism using this procedure because of the large number of features found in prototypical terrorism and the possible variations upon each feature. Given this variety the number of possible members of the taxonomy is simply too large. But although large the taxonomy is not unwieldy because all one needs to do to identify a type of terrorism is to provide specificity to the general features of prototypical terrorism. One does this either by specifying a type, e.g. one can specify 'power resource' to be a particular kind of bomb, or one indicates that a feature is missing, thereby identifying a derivative form of terrorism. I will restrict myself to coining names for the most interesting forms of terrorism. For example using the feature of the target population I differentiate terrorism into two broad categories in one of which the target population is innocent and in the other of which the target population is non-innocent. Concerning this important distinction, in this chapter I merely explore the issue of whether it is appropriate to restrict the concept of terrorism to only those occurrences in which the target population is innocent

without getting very precise about what the criteria are for identifying the innocent in the relevant sense. In chapter 3 I explore the meaning of 'innocent' and investigate the relevance of this feature in judging the morality of an occurrence of terrorism. I begin the examination of the features of prototypical terrorism by examining 'power'.

The feature of power: What kinds of power are utilized?

We may study the movements of celestial bodies without concerning ourselves with astronomers' concepts which, though they were once believed, do not correspond to the reality; this is so because the movements themselves are unaffected by our beliefs about them. But the position is quite different when it comes to the ideas conceived at different times of Power; for government, being a human, and not a natural, phenomenon, is deeply influenced by the ideas men have of it. And it is true to say that Power expands under cover of the beliefs entertained about it.

Bertrand De Jouvenel

In my definition of prototypical terrorism I make two references to power. I say that someone exercises power and/or someone uses a power resource. In fully prototypical occurrences of terrorism there is both a terrorist leader and a terrorist agent and it is usually the former who exercises the power and the latter who uses the power resource. My analysis of the Tan War assumes that the parallel governmental structure set up by Sinn Féin, including the IRA as their military arm, gave to the leadership something essentially similar to the authority inherent in holding an official governmental position. When the commander of an IRA unit gave his men an order to seek out and destroy

RIC constables they carried out these orders on his authority. Thus in the Tan War occurrences of terrorism the powers exercised by the terrorist leaders were political and military authority. When the terrorist agents complied with their orders they used power resources to affect the members of the target population. The power resources they used were fire arms and bombs.

The reason the terrorist leaders exercised power and the terrorist agents used power resources was to alter existing power relationships. The British had political power in Ireland, that is to say they had political power over the Irish. The IRA wished to alter this power relationship. What the IRA wanted to do was to exercise their power and use their power resources in such a way as to bring about a state of affairs that they desired: one in which Britain no longer had political power over the Irish. To the extent that the IRA exercised power in a purposeful manner they were using a power tactic and to the extent that these tactics were orchestrated they were using a power strategy.

'Power' is one of the most centrally important concepts of the social sciences. It is perhaps the most centrally important concept of political science and it is important to sociology also. But in defining 'power' social scientists have sometimes stated a definition of 'power' tout court and sometimes they have given a definition of some other idiom such as 'having power', 'exercising power',

or 'power relationships' without giving any other definitions or indicating how these other idioms are related to one another. For example Robert A. Dahl (Dahl) defines 'having power' and Herbert Simon (Simon) defines 'exercising power'. A few, such as Peter Bachrach and Morton S. Baratz (Bachrach and Baratz) have attempted to define a primitive concept and indicate how other concepts are forms of it. Bachrach and Baratz defined 'power' as a primitive and then attempted to show that other concepts such as 'manipulation', 'coercion' and 'influence' were forms of power. Many social scientists, such as Herbert Simon, claim that 'power', 'influence' and 'control' are all synonymous. (Simon) I think that we can make sense of all of this by using the concept 'power relationship' as a primitive concept for social scientists and defining the other necessary power concepts from this.

I begin to show how a move to using 'power relationship' as the primitive concept is the wise thing to do by exploring other definitions of various power idioms that have been influential and indicate where they fall short of the needs of social scientists. I show that these shortcomings can be corrected by using the concept 'power relationship' that I provide. I then show how the concept 'power relationship' can be used as a primitive to define the other important power idioms. Finally I show how the features of the definition of 'power relationship' can be used to identify types of power relationships.

In an important early article, "The Concept of Power", Robert A. Dahl defines the general concept of 'having power' as:

A has power over B to the extent that he can get B to do something that B would not otherwise do. (Dahl, 1957, in Bell, et. al., p. 80)

Dahl's definition of having power faces two rather obvious objections. The first is that it is too anthropomorphic (even sexist) in its use of the word 'he'. Supra-personal entities such as nations can have power as well as men and women. This problem can be rectified simply by replacing 'he' with 'A'. The second objection is that social scientists ought not to limit the effects generated in B to just getting B to do something. To do so ignores crucially important types of effects that don't involve B's doing anything at all, effects such as terrorizing a person or changing their beliefs and preferences.

A number of social scientists have offered definitions that correct both of these problems. For example Nelson Polsby in his important work Community Power and Political Theory defines 'power' in the following way:

In its most general meaning, as far as social science is concerned, one can conceive of "power"--"influence" and "control" are serviceable synonyms--as the capacity of one actor to do something affecting another actor, which changes the probable pattern of specified future events. (Polsby, p. 3)

Other authors giving similar definitions are Karl W. Deutsch, Herbert Simon, Harold D. Lasswell and Abraham Kaplan, and James G. March.³ Polsby tells us that "actor" is meant to encompass both persons and supra-personal entities,

solving Dahl's first problem and since both terrorizing a person and changing someone's beliefs, I suppose, changes "the probable pattern of specified future events" the second problem is solved, too.

There is a third problem that both Dahl's definition and Polsby's definition share. Effects can be generated in B not as a result of any acts of A (in Polsby's terminology: the doings of A) but simply as a result of what is best captured by the concept of a state of A. Let me illustrate this problem of the Polsby type definitions.

Suppose I am a criminal intending to rob a particular bank at a particular place and time. Suppose I arrive at the bank at the planned time and discover that, although usually unguarded, today the bank has a uniformed security guard carrying a firearm. I abandon my intention to rob the bank. Now it would certainly seem that abandoning my intention to rob this bank has changed the probable pattern of specifiable future events. Specifically the probability of my robbing the bank in the immediate near future. But there doesn't really seem to be anything the security guard does that has this effect, after all he's just there doing nothing in particular and has no idea he is affecting me at all. But it certainly seems to make perfectly good sense to say that his power is responsible for the relevant effects and that he and I are in a power relationship. One way to explain the power of the security guard is not to say that there is any particular act of his that results in my chang-

ing my intention. It wasn't his going to work at that bank today nor his act of stationing himself at a particular location that affected me. Rather that he is wearing a uniform of a security guard and is armed with a fire arm is taken by me to be a sign that he intends to prevent a robbery at the bank by harming with his firearm, if necessary, anyone who tries to rob the bank. It is because there is good reason to believe these two facts about him that I do not rob the bank. Both of these facts can be captured by the notion of a state of the guard. He can be conceived as being in a certain cognitive state, i.e. intending to prevent a robbery, and the firearm gives him a kind of capability state, i.e. being armed with a power resource capable of doing physical injury to me. Of course we could rig up a description of him that makes it sound as if he's acting in some way, i.e. he's guarding the bank, but this doesn't really require that he be actually acting in any way. In fact all that this description seems to entail is that he is awake and that, given certain states of affairs such as me walking in and attempting to rob the bank, he will use his gun to stop me and this is just as well captured by saying that he intends to prevent any robberies at the bank while he is on duty.

Now social scientists clearly are interested in what is going on between me and the security guard in this example but it would seem odd to say that in just standing around and doing nothing the security guard exercises power but it

does seem to make perfectly good sense to say that the bank security guard and I are in a power relationship and it also seems to make good sense to say that the bank security guard has power. So social scientists who define exercises of power and tell us nothing about 'having power' or 'power relationships' have some further explaining to do in order to tell us how they would describe what is going on between me and the guard in this example.

Polsby style definitions can dodge the charge that they fail to capture such power relationships by claiming that their definition of 'power' uses an extended sense of 'doing' that encompasses both actions and states and that is found in common language. This sense is illustrated by the following exchange about the security guard: "What is he doing in the bank? He's guarding it." However that still leaves the task of indicating how the other power idioms are related to this definition of 'power'. As I will show below, one can define the concept of 'power relationship' as primitive, define the other relevant power idioms that social scientists require from it and use the general features of the definition of 'power relationship' to differentiate types of power relationships that are useful for empirical research.

In addition to the type of power relationship between persons that seems best described as a function of states of A rather than the doings of A, many of the interesting power relationships involving supra-personal entities and persons

that sociologists refer to when they talk about structural effects are best described as a result of the state of a political, social or economic system. So I define my primitive concept 'power relationship' this way:

def

Power relationship= a relationship between two entities A and B such that a state or act of A results in (or prevents) a state or act of B.

Using 'power relationship' as the primitive term enables one to define the other power idioms by means of it through variations of the general features of the definition: 'entity', 'state' of an entity, and 'act' of an entity, as I will show below.

The power relationship is an asymmetrical relationship, that is to say A may be able to generate acts or states in B that B cannot generate in A. The idiom 'power over' is defined as an idiom that highlights the fact that power relationships are asymmetrical. We may use the idiom 'A manifests power over B' to indicate that A and B are in a power relationship and that we are interested in the fact that A generates effects in B.

I reserve the term 'A actively manifests power over B' to refer to a type of power relationship that requires an act of some entity, thus 'actively manifests power' is a less general power relationship.

def

A actively manifests power over B = An act of A results in (or prevents) a state or act of B.

Most common language usages of 'exercise of power' imply that A acted intending to affect B. I define 'A exercises power over B' as a power relationship in which A's

act must be describable in this way, i. e. as an act of intentionally affecting B.

A exercises power over B when A acts so as to bring about an act or shift in state of B and in so doing A actively manifests power over B.

I define 'A successfully exercises power over B' as an exercise of power in which the effects generated in the manifestation of power over B and the effects A intended to generate in B are identical.

Most exercises of power by A over B are done with an end in view, but not all. An end in view is some state of affairs that an actor wishes to bring about. Sometimes persons are motivated to act merely emotionally as when, roused to action by anger, they instinctively strike the source of their anger. It would seem strange to say of such persons that they acted in order to relieve the anger or even that they acted in order to hurt the object of the anger, rather the anger merely caused them to act so as to strike the object of the anger. Acts of this type ought still to be called exercises of power, for it seems reasonable to say of an anger provoked attack that, even though the anger provoked actor had no end in view, he did act so as to hit the object of his anger. I reserve the term 'purposeful exercises of power over' to refer to exercises of power in which the act of A is characterizable as an action done with an end in view.

def

A purposefully exercises power over B = A exercises power over B in order to achieve some end.

There are states of entities that result in the formation of new power relationships that are best described in general as "having a power resource". So I define 'power resource'.

def

Power resource of A = An instrument that can be used by A to manifest power over B.

All sorts of things are power resources, for example money, fire arms, armies, manufacturing firms, private property institutions, and communications media such as television stations.

I define 'A has power over B' in this way:

def

= A can manifest power over B.

An important end in view of many purposeful exercises of power is to gain, for the actor, power that the actor doesn't already have. To do this the actor may need to act so as to acquire a power resource or she may need to change the way people react to her acts. Both gaining a power resource or changing the way people react to one may be pursued in a single act or it may require repeated acts to achieve one's goal. For example I may acquire a power resource in a single act, as in purchasing a gun, or to do so may require a series of coordinated acts on my part, as in order to acquire a controlling interest in a television station it may take repeated acts of purchasing stock in the television station together with acts of pleading with or threatening other share holders. This distinction allows us to distinguish power tactics from power strategies.

def
 Power tactic= An act of A intended to result in (or prevent) a state or act of B that A believes will result in A having power that A previously lacked.

I define 'power strategy' as:
 def

Power strategy= A series of acts of A intended jointly to bring about (or prevent) a state or act of B that A believes will result in A having power that A previously lacked.

Now an act of terrorism can be a power tactic or it can be part of a power strategy. That is to say the terrorist agent may believe that a single act of terrorism may achieve the result he aims at or he may believe that to reach his end may require repeated acts. So given this fact we can name two empirically interesting forms of terrorism: tactical terrorism and strategic terrorism. Both of the historical cases of terrorism in chapter one were instances of strategic terrorism. An occurrence of terrorism that I discuss in a later section, the bombing of the American headquarters at Beirut airport, was, perhaps, an instance of tactical terrorism, if it was the case that there was a terrorist leader who planned this bombing as a single act, uncoordinated with any other acts of terrorism, which he believed would achieve his end of forcing the U.S government to remove its military forces from Lebanon. On the other hand there were other bombings of American and French diplomatic and military targets that took place in Lebanon at nearly the same time as the bombing of the headquarters at the airport. These may have been perpetrated by the same terrorist leader as part of a coordinated series of acts intended jointly to achieve the end of driving both American

and French military forces from Lebanon. In that case the bombing of the headquarters at the airport was part of a more complicated occurrence of strategic terrorism. An interesting empirical investigation, for a later time, would be to generalize over these two very different types of occurrences of terrorism to determine under what conditions tactical terrorism could be expected to be successful and when strategic terrorism would have to be resorted to. For now I must focus my attention on the various ways of exercising power to see which of them can be found in an occurrence of terrorism. But first, I need to point out that terrorism always involves an exercise of power, that there just aren't any power manifestations which aren't exercises of power that are occurrences of terrorism.

Consider the bank security guard example. Although he and I are in a power relationship and one which frightens me and prevents me from taking money from the bank thereby helping to preserve the bank's favorable financial position, it is not prototypical terrorism, for the security guard neither exercises power nor is the target killed. But suppose instead that bank security guards adopted the practice of hiding in banks and shooting dead men who went up to tellers and attempted to rob. Suppose they adopted this practice because they expected it to terrorize an audience population of persons disposed to rob banks and they did this to prevent bank robberies in order to preserve banks' favorable financial positions. Then the security guards

would be exercising power (their acts of shooting are intended to result in states of death of their targets) and it would seem to be correct to call them terrorists. This version adds two features to the original example, the guards exercise power and the result of their acts is the death of the target population. It now has all the features of prototypical terrorism and it would seem appropriate to call such an occurrence terrorism. But all occurrences that people call terrorism do not result in the death of the target, for example terrorist kidnappings. So it is likely that derivative forms of terrorism can be identified as those that lack the feature of killing the target, perhaps having a weaker but similar feature.

Suppose we add to the original bank security guard example that the bank president had directed that security guards be hired in order that their presence in the bank would frighten anyone who arrived at the bank intending to rob it. Now is it terrorism? At first glance it doesn't seem so and it clearly isn't prototypical terrorism because it would have identical target and audience populations and the target isn't killed. But it does have all the other features of prototypical terrorism, including an exercise of power, in this case by the bank president using his authority to station security guards in his banks. It might be suggested that it isn't even a derivative form of terrorism because a potential bank robber isn't innocent in the relevant sense and that the feature of innocence of the target

is a necessary feature of any kind of terrorism at all. But perhaps the target and audience can be identical and need not be innocent, in which case the bank president is the terrorist leader of a derivative form of terrorism, perhaps an instance of my suggested categories of innocuous terrorism or maybe even obligatory terrorism. We shall have to wait to see what role these other features play in the determination of derivative forms of terrorism and to discuss the relevant criteria for morally evaluating terrorism before we can finally settle all of these questions. In any event these three variations of the bank security guard example indicate that terrorism requires that someone must act in order to affect the target population and thus that for an occurrence to be any kind of terrorism at all, no matter how weak the derivative form it is, there must be an exercise of power over the target. One further example should strengthen this view.

Suppose rather than a bank security guard being present in the bank the day I intend to rob it, an off duty policeman in uniform just happens to be in the bank cashing his paycheck and visiting with a teller. The same kind of power relationship forms between us as between the bank security guard and me. The policeman manifests power over me in that his presence leads to my dropping the intention to rob the bank because I fear being harmed by him, if I were to attempt this in his presence. But now the example lacks any exercise of power over the target at all. There is no

exercise of power over me by either the policeman or the bank president. Thus no matter what one is inclined to say about the bank security guard example, the off-duty policeman example lacks the feature of an exercise of power. I stipulate that any occurrence lacking this feature is not an occurrence of terrorism. Any usages of 'terrorism' which denote occurrences that lack exercises of power over a target population are to be treated as merely metaphorical usages.

What are the ways in which power can be exercised?
Which of them can be used in terrorism?

One can distinguish one kind of exercise of power from another in the same general fashion as I have used to define the other power idioms above from the primitive concept 'power relationship'. That is one stipulates the exact nature of the general features of the power relationship: entity, state and act. For example one can distinguish between personal power manifestations and institutional power manifestations by stipulating that in 'institutional power manifestations' A denotes supra-personal entities whereas in 'personal power manifestations' A denotes persons. In both of these definitions B denotes either persons or supra-personal entities.

Many idioms of common language can be clarified by pointing out that one power word is often used in contrast with another in order to highlight differences between the types of acts or states referred to in the contrasting

usages. For example someone might say, 'Although Nancy Reagan has no power she has a lot of influence.' Someone objecting to this usage might say, 'Power and influence are both the same thing.' For example Lasswell and Kaplan define a very general sense of 'exercise of influence' which Simon (Simon) adopts as his definition of 'power':

The exercise of influence (influence process) consists in affecting policies of others than the self. (Quoted in Hawley and Wirt, p. 24)

This disagreement over whether or not 'power' and 'influence' are synonymous can be cleared up by pointing out that common language often uses the same word to express different types of power relationship. We need to recognize this fact and try to use words that express more distinctions where this is possible. For example, there appear to be at least three distinct senses of 'influence' in common language. The first sense is synonymous with the primitive notion of power relationship. This sense of influence is more general than that of exercises of power so the Lasswell/Kaplan definition is misleading in its use of the idiom 'exercise of influence'. The fact that 'influence process' is placed in parentheses in the definition indicates that Lasswell and Kaplan intend to define a broader notion than that of 'exercise of influence', roughly, those that are, in Ryle's terminology, "episodic" or "clockable", irrespective of whether or not they are intentional acts of a person. What sociologists call structural effects, for example the way in which the existing institutions and

social values are givens for an individual born into a society that shape the individual's character, are the result of what can be called either 'institutional power' or 'social influence'. These are the result of nothing that can be called exercises of influence or power. Rather one social structure can be distinguished from another by reference to how they differ in their institutions such as laws, court procedures, legislatures, voting procedures, schools, churches and so on. It seems reasonable that different institutions may produce different effects in their citizens and it seems appropriate to say that changes in such basic structures would change the state of a social system. In fact Morton Kaplan uses these very features, together with others, to describe what he calls the state of a political system. (Kaplan) Thus this sense of 'influence' most often is used to refer to a power relationship that exists between supra-personal entities and persons. Specifically the power over individuals these institutions have.

Another common language idiom using 'influence' pertains to exercises of influence and is specifically contrasted with exercises of power. When used in this way both 'power' and 'influence' are less general than the common general meaning of these terms. This distinction relies on a contrast between the descriptions of the acts performed in exercising power as contrasted with those in exercises of influence in this sense. The question one must ask in distinguishing the first of these from the second is 'Does A

perform an official act?' This is the sense of 'influence' at work when it is said that Nancy Reagan lacks power but she is very influential. Because Nancy Reagan holds no official position in government she can perform nothing which can be called an 'official act'. But many of her acts, it is presumed, do have effects in the supra-personal entity known as the United States government because she influences/has power over (in the general sense) her husband, the President of the United States. Because she can generate effects in the United States government by means of unofficial acts rather than official acts we say that she has political influence but no political power. On the other hand, Ronald Reagan can perform numerous official acts (e.g. signing a bill passed by Congress) which generate effects in the United States government and so he has political power (in this less general sense) in addition to political influence (in this less general sense). Unfortunately both the general senses of power and influence and the less general senses are deeply ingrained in usage and are a potential source of great confusion. We can try to clear up this confusion by referring to the kind and extent of power Ronald Reagan has but Nancy Reagan lacks as 'ex officio power'. We can use 'wields political power' as an idiom that indicates that an individual is able to act so as to bring about changes in a supra-personal entity known as a political system. This allows us to say that, although Nancy Reagan has no ex officio power, she can wield politi-

cal power. Common language often refers to someone's ability to wield political power by saying that they have political influence.

A third sense of influence is distinguished not by reference to the character of the acts by which it generates its effects but rather by reference to the character of the effects generated. It is this sense of 'influence' to which we refer when we say things such as 'You can see in his work (character) how great an influence his teacher (mother) had on him'. What we refer to here is what can be described as the production of enduring states. A teacher or parent who has been very influential in this sense has, through their actions, character, etc., produced dispositions to see the world in a certain way or to approach problems in a certain way and so on. Again, this sense of 'influence' is frequently found in common usage.

An explication of 'power' should be sensitive to these common language ambiguities but at the same time should clear up the confusion that can result from this. I provide a methodology for distinguishing one form of power relationship from another which helps to clear up the ambiguities in the terms of common language. The methodology is very simple and is the same methodology which is being used to distinguish one form of terrorism from another. That is, concentrate on the relevant general features and use variations of these features to distinguish types.

The relevant features to be used in distinguishing one form of power from another are: entities, states and acts. For example by specifying the type of entity which is said to have the relevant power one distinguishes personal power from institutional power. By specifying types of acts and states of the entity that has the power as well as types of acts and states of the entity in which the effects of the power are generated one can account for various sub-types of general power such as I have done above in distinguishing the political influence of Nancy Reagan from the ex officio power of Ronald Reagan. In this way we can account for the distinctions of common language without becoming confused by the multiple senses in which a word such as 'influence' is used.

For example Kurt Baier provides a very illuminating analysis of 'exercising authority' that is a form of exercising power as I define that term. Baier explicates the criteria for identifying certain acts as what he calls "authority utterances". (Baier, 1972) Roughly speaking the person who utters an authority utterance must satisfy the relevant criteria for his utterances about a subject matter to have weight either because he is an expert in the relevant subject matter (for example a physician who has expertise about the subject matter of health) or because he is in a position to make ex officio utterances (for example a legislator stating that we shall drive on the right side of the road in the United States of America. Using these

criteria to identify an act of some person A as an authority utterance we have gone part of the way in specifying what must be true of the acts of some A and B who are in a power relationship in order to say that that power relationship is one in which A exercises authority over B. But, Baier shows, one also must be able to characterize the act of B as "compliance behavior" undertaken by B on A's authority. Roughly speaking this is to say that B acts for a particular reason, i.e. because he recognizes A as satisfying the relevant conditions that makes him an expert and B accepts this as a reason for compliance with A's authority utterance. If we characterize B's act of doing what A said to do as motivated by fear of what A will do to B if he does not comply, then an authority relationship does not exist, more likely it is a relationship of coercion. If we accept Baier's criteria for describing an act as an authority utterance and his criteria for describing an act as done on someone's authority, then we have all we need to separate this way of exercising power from other ways.

Let me mark off another way of exercising power by giving a sketchy analysis of a common language sense of 'manipulation' which I have developed by concentrating on usage and analyzing it in terms of the major features of power relationships. This sense of 'manipulation' is used to describe an exercise of power by a person using acts of a specifiable type and is found in the following usage: 'The Jordanians manipulated the Syrians into a war with Israel by

getting the Syrians to allow terrorist attacks on Israel, from territory they controlled, of a scope which they weren't aware of and wouldn't have allowed had they known what the Jordanians intended.'

In order to justify a claim that A manipulated B, in this sense, a number of things must be true about states and acts of both A and B. For example A must perform act(a) for reason R part of which was that he believed this would result in B's doing (or refraining from doing) some act(b). A also must believe that B would not perform act(b) if he were aware of reason R. So A must perform act(a) in a particular kind of intentional state. A description of this intentional state can form part of the description of act(a) or one alludes to it in a general way when one describes A's act as a manipulative act, in this sense. With respect to B, it must be the case that B does (or refrains from doing) act(b) because of act(a) but in ignorance that A acted for reason R. It must also be the case that if he knew A wanted him to do act(b) for reason R, he would not do act(b). So B must be in a particular kind of cognitive state lacking certain knowledge when he does act(b) and this forms part of the description of act(b) as a manipulated action. If we accept this account of the criteria for describing an act as an act of manipulation, in this sense, and of the criteria for describing an act as a manipulated action, in this sense, then we have all we need to mark off this way of exercising power. Since this sense of manipulation may be

described as a purposeful exercise of power over B in which A's end in view is concealed from B we may call this 'concealed-end-manipulation'. As the above example statement, in which the Jordanians manipulated the Syrians, indicates this way of exercising power might be very useful to a terrorist leader.

Other ways of exercising power such as coercing, entail different descriptions of the acts and states of the coercer and person coerced. If one says that A coerced B then one is committed to other description of the acts and states of A and B than if one claims that A manipulated B in the above sense, for in coercion B may know that A did act(A) for reason R. The essential parts of the description of acts of coercion and coerced acts seem to be that act(A) must be characterized as some kind of threat to B and it must be received and understood as a threat by B and act(B) must be described as intended to avoid the harm threatened.

'A informs B' and 'A terrorizes B' are two other examples of ways of exercising power. These ways of exercising power are differentiated by describing the effects generated in B by A not as acts but as states. In informings the states generated are characterized in such terms as 'knowing that', 'believing that' or 'understanding that' whereas in a case of terrorizing the state must be described as a 'state of terror'.

Within the scope of this project I cannot pursue the analysis of kinds of power relationship using this metho-

dology in any more detail for there is a very large variety of such relationships and each one deserves far more attention than I have given above to 'authority', 'manipulation' and 'coercion'. Furthermore, just as with 'influence', common language power terms frequently have multiple senses. Suffice it to say that I intend to capture the whole range of power relationships that social scientists are interested in and to show that a great variety of these can show up in occurrences of prototypical terrorism.

Before I turn to the task of examining cases to show the variety of exercises of power and power resources that may be used in an occurrence of terrorism, let me say a few words about why I began this section with the quote from De Jouvenel. De Jouvenel is talking about government when he talks about Power with a capital P. But the point he makes is equally relevant to power relationships. What effects are generated in persons as well as what acts of persons are prevented as a result of power relationships is quite often a function of their beliefs, most relevantly their beliefs about the intentions and capabilities of others. Often these beliefs can be mistaken and as a result of this people can act in particular ways on the basis of an illusory belief in the existence of certain power relationships. There is a lot of room for this illusion to operate in terrorism. A terrorist may think that he is acting to change peoples' beliefs in order to free them from illusory bondage, and the bonds may be all-too-real. Or the terror-

ist may correctly assess only part of the power structure. On the other hand the terrorist may have things right on and for success all he has to do is to erase a few illusions. Assuming one can determine the extent to which a terrorist leader has made a realistic assessment of the power relationships within which he operates, we can make two more interesting categories of terrorism for empirical researchers: 'clear headed terrorism' and 'muddled thinking terrorism'. But now let's turn to the task of determining the extent of the variety of exercises of power and power resources that may be used in prototypical terrorism.

Consider the following wily self-seeker: his END is to become rich. Wily is the leader of a criminal kinship group whose members believe that they owe primary loyalty to the kinship group and recognize Wily as entitled to exercise head of the family authority. Wily makes various background assumptions about how to scare the wits out of people, how information about frightened people is important to other people and bureaucratic entities, how easy it is to promulgate information such as this via television and newspapers, and various assumptions about how the Federal Drug Administration (FDA) and the stock market function. He also makes various assumptions about the effects of certain chemicals on the functioning of the human body.

Wily Self-seeker's terrorist campaign:

I shall direct some of the members of my group to buy a few packages of a well known pain medicine in capsule form

and, also, to short sell x shares of the stock of the manufacturer of this medicine. (Short selling is a maneuver in which you sell shares you borrow from someone else in the hope that they will then drop in price, at which time you buy the shares back and return them to their owner. The difference in price between what you sell and buy them for is your profit.) I shall then replace the pain medicine in the capsules with cyanide and direct someone to place these on a drug store shelf. This will result in the gruesome death of certain people, whose family, friends and doctors will be horrified and anguished. The police will become informed and in turn inform newspapers and television broadcasters who will widely disseminate this information; consumers of this item will be terrified and come to expect the FDA to do something to assure the safety of the nation's over-the-counter drug supply in order to quieten their terror. The FDA will immediately order a recall of the drug in this form, resulting in losses to the manufacturer. Wall Street traders will fear a complete FDA ban on the sale of capsule medications over the counter or the FDA may quickly order just this. In either eventuality, the price of the stock of the company producing the tainted drug will probably suffer a rapid, although temporary, drop in price. This will be sufficient for me to cover my short position very cheaply, reaping a huge profit.

This Wily Self-seeker example is fully prototypical. Wily is the terrorist leader, his man who placed the tam-

pered drugs on the drug store shelf was the terrorist agent, the poor unfortunates who happened to take the tampered drugs were the targets, as many American drug consumers as became aware of what happened to the targets were the members of the audience population, and the stock market was the supra-personal target. The immediate end was to create terror in the audience population, the mediate end was to drive down the price of stock x on the stock market and the END was for Wily to reap a huge profit. Wily exercised authority over the terrorist agent and then, assuming the terrorist agent knew that the drugs were tampered, the latter manipulated the targets into killing themselves. If not, Wily manipulated the terrorist agent into helping to kill the target. It also seems appropriate to say that Wily used the terrorist agent as a power resource to manipulate the target population and that he used the target population as a power resource to concealed-end-manipulate the audience population.

Apparently any number of types of exercises of power and power resources may find their way into an occurrence of prototypical terrorism. The only limitation is that they must be capable in some way of generating effects in the target population sufficient to cause terror in the audience population. I will give some precision to this notion at a later time. For now let's just note that one need not kill or cause serious physical injury to the target in order to generate terror in an audience population.

Consider the Machiavellian advice which serves as epigraph to this chapter. Machiavelli suggests to the Prince that a good tactic for securing control of another territory is by establishing a colony of loyal immigrants mixed with complaisant natives. The loyal immigrants are to be established in the colony by evicting natives from their homes, dispossessing them of their property, and banishing them to the hinterlands. Machiavelli urges that this will result in the remaining natives becoming complaisant for fear of being banished themselves and he insists that as long as one does not banish too many this will secure the colony for you as the banished will be too small in number to resist and the non-banished will be terrified of being banished for saying or doing the wrong thing and so will become quiet subjects.

The Machiavellian example is not fully prototypical because the target population is not killed. But it does have all the other features of prototypical terrorism. The terrorist leader is the Prince who intends to put this Machiavellian power strategy to work. The terrorist agents are the Prince's soldiers, the targets are those unfortunates singled out to be banished, the audience population consists of the non-banished natives, the supra-personal target is the natives' system of political and social control. The immediate end is to generate terror in the audience population, the mediate end is to make the political and social control system of the natives responsive to the acts of the Prince, and the END is presumably to increase

the power of the Prince, e.g. by being able to use the colony as a power resource. Finally, reading Machiavelli provided the Prince with most of the relevant background assumptions. Unless we find that prototypical terrorism must include other features, such as being perpetrated by persons who have no formal government power, it seems reasonable to say that the Machiavelli example is a derivative form of terrorism that is very nearly prototypical. This issue will be resolved in the next section.

I conclude this section with a comment about typologies of terrorism using the feature of 'power' as a variable. Types of terrorism can be identified by specifying various ways of affecting the targets that one can readily see will generate terror in people relevantly related to the targets such as family, friends, fellow travelers, and fellow citizens. For example, terrorist bombings, terrorist hijackings, and terrorist kidnappings. Such categories may be of use to empirical researchers armed with the analytical structure of prototypical terrorism. They can attempt to investigate such incidents with an eye to discovering what other features of prototypical terrorism are present or absent. It is not too much to expect that a better empirical understanding of terrorism will result from investigations guided by the analytical structure of prototypical terrorism and an understanding that there are derivative forms of this full featured type.

The features: terrorist leader and terrorist agent:

Who are the terrorists?

When we ask the question 'Who are the terrorists?' we must keep in mind the distinction between the terrorist leader and the terrorist agent. If we do this we see that the question 'Who are the terrorists?' really concerns two different matters. The first is a matter of comparing the description of the terrorist leader/agent to that of the target/audience population. When discussing this matter for simplicity's sake I call the first pair the 'terrorists' and the second pair the 'victims'. The second matter concerns the descriptions of the terrorist leader and terrorist agent alone. This latter matter also raises the question 'How are the terrorists organized?' but since to state how they are organized is one way of describing them I include this matter under the general question 'Who are they?'

With respect to the first question one important way in which the terrorists and the victims can be compared is to ask whether they live together in a common political, economic, or social unit in which a struggle for power is taking place between two contending groups. If the answer to this question is 'yes' and the terrorists are members of one of the contending groups and the victims are the members of the other group, then we can identify this as 'internal war terrorism'. Such a struggle may take place in an economic unit such as a manufacturing corporation between management and labor, in a social unit such as a community of persons

living together, as well as in a political unit such as a nation-state. Of course more than one side may resort to terrorism in such a struggle. Thus since the political elites in a political unit are the ones who exercise political power over the non-elites we may use a spacial metaphor to identify the categories of 'terror from above' and 'terror from below' to indicate whether we refer to the terrorism employed by the power elites or the terrorism employed by the non-elites. Of course many times various persons who are non-elites are victimized by terrorists from below and elites are sometimes victims of terrorists from above but when this takes place during internal war such victims are identified by the terrorists as 'traitors'. 'International terrorism' takes place within the context of a struggle for power that spills into the international arena. In this kind of terrorism the terrorists and the victims are members of different nationalities. Most people recognize terror from below and international terrorism but many people are reluctant to call 'terror from above' terrorism. An additional source of confusion is that some people do not recognize all occurrences of 'terror from below' as terrorism. If the END is approved of and if the victims are members of what is considered an oppressive political elite, then the terrorists are often called 'freedom fighters'. This distinction can be used to divert our eyes from the relevant moral debate over what the criteria should be for judging terrorism and how they apply in a particular case. A rhe-

torician can use these labels to his advantage by obfuscating an already murky affair. He uses these terms, jumping in the one case from pointing out the END being pursued (the freedom fighters) to, in the other case, pointing out the means being used (the terrorists). This is a useful rhetorical technique but it is useless for empirical and moral investigation.

To show that there really is terror from above and that it has the same important features as terror from below let's investigate the historical struggle in which the term 'terrorism' was coined to see what features of prototypical terrorism it has. This was during 'The Terror' of the French Revolution and the terrorists in this struggle were political elites who thought the victims deserved to be killed and terrorized (because they were corrupt or traitors) and that in doing this to the victims they were ushering in liberty, equality, and fraternity. The terrorists in this episode proudly called themselves terrorists.

The term 'terrorism' originated with the Jacobins and when they used it to refer to their actions they did not at all mean to imply that they were immoral in their aims or their means. To the contrary, they were quite proud of themselves. Subsequently, the term terrorism came to be used to refer to "the period in the French Revolution...between March 1793 and July 1794..." (Laqueur, p. 6) These later usages both denoted the strategies used in this period and implied that the Jacobins were immoral in their actions.

Rather than concluding that the meaning of terrorism shifted from implying moral virtue to implying moral vice or concluding that the Jacobins and their critics used the term with different meanings, I think that it is better to conclude that the Jacobins and their critics both used the term to denote the same occurrences but that they differed in their judgments about the moral character, all things considered, of the occurrences. Subsequently, as it became generally acknowledged that the terrorism of the Jacobins was, all things considered, immoral, the term 'terrorism' began to automatically carry the implications of immorality and the Jacobins thought of as morally depraved individuals. (OED) It is best for our understanding of the nature of terrorism, however, if we recognize that both the Jacobin and his critic agreed on the structural features of terrorism and even perhaps on the prima facie immorality of it, but disagreed over the final judgment concerning the Jacobin terror.

The Terror had two distinct stages. The first stage took place in the summer of 1792. After the fall of the Bastille the monarchy was temporarily suspended and then Louis XVI was returned to the throne and remained king until the summer of 1792. During the period following the return of Louis to the throne until the summer of 1792 France was a kind of uneasy constitutional monarchy. By April of 1792 both Louis and various Republicans favored a war in Germany, the Republicans because they expected in these circumstances

to be able to force the king to accept Ministers favorable to the Republican cause in order to successfully fight the war, Louis apparently because he expected the war to bring Austrian troops into France which would result in the Austrian Hapsburgs restoring the ancien regime. Of course various divisions within the Republicans ensued, with those opposing the war suspecting those favoring it of playing the king's game.

The war went badly and by mid-august 1792 two powerful fortresses in the frontier of France quickly capitulated and treachery was immediately suspected when the news reached Paris. On August 10th leaders of the 48 political sections into which Paris had been divided organized a takeover of the Paris Commune, the municipal government, and led National Guardsmen from Paris to the royal palace of the Tuileries and arrested Louis XVI. In the opinion of Robbespierre, one of the leaders in the August 10th action, they had inaugurated an important change in France. He said of these events that they made up:

the finest revolution that has ever honoured humanity, indeed the only one with an object worthy of man: to found political societies at last on the immortal principles of equality, justice and reason. (quoted in Hampson, p. 7)

Robbespierre and those who with him would adopt the strategies of the two stages of The Terror were agreed that the END they aimed at was the ideal state of Rousseau embodying the principles of the Universal Declaration of the Rights of Man. Those individuals who had supported a return

to the ancien regime, the ultra-royalists, and those who supported a constitutional monarchy were both branded 'aristocrats' and identified as enemies of the people. Those who were suspected of having such sympathies were the object of an intensive search and when apprehended were imprisoned. By September 2nd further reverses on the battlefield reached Paris and a few journalists and some of the leaders of the sections encouraged mobs to take over the prisons. Over the next few days the 'aristocrats' in the prisons were massacred.

It is difficult to say of this first stage of The Terror whether it is prototypical terrorism or a derivative form because it is difficult to determine just who intended for the 'aristocrats' to be massacred and whether it was intended for these massacres to intimidate through fear all those persons harboring 'aristocratic' leanings. However, in that there is clearly a target population (the 'aristocrats'), an END (the protection of the Republic from the real or imagined plotting of the 'aristocrats'), and an agent instigating the attacks on the target population as a means to the END (the journalists and leaders of the sections), some important features of prototypical terrorism are present and it is likely that this is a derivative form of terrorism. But before we can settle this issue other cases will have to be examined to determine what features of prototypical terrorism are sufficient to form a category of derivative terrorism.

The second stage of The Terror was clearly a case of prototypical terrorism. It was at this stage that legally constituted bodies of the government were empowered to engage in acts intended to intimidate through fear as a means of defending the ideal state. These bodies were the Committee of Public Safety and the Revolutionary Army. Two of the leading members of the Committee were Robbespierre and Saint-Just and it was Saint-Just who indicated exactly what the strategy was to be that these two arms of the state would follow:

The only function of law is to repel evil; innocence and virtue go about the earth freely. (Ibid. p. 17)

There were various categories of individuals falling into the classes of target (and audience) populations in the second stage of The Terror all of whom fall under the general category of 'traitors'. Two of the main sub-categories were singled out because of their reactions to demands upon them that were inevitable as a result of a decision made by the government in early 1793. Without much serious thought or debate the government declared war on England, Spain and Holland while France was still at war with Prussia and Austria. War on this scale was unprecedented and required conscription of all men between the ages of 18 and 25, huge employment in war industries and to feed the armies and the war industries unprecedentedly high requisitioning of food from the peasantry. Those who resisted because of the

conscription were branded traitors while those peasants who resisted requisitioning were branded selfish.

Two other main sub-categories were the same individuals labeled as 'aristocrats' from the first terror and priests. The clergy were required to renounce allegiance to the Pope or to depart France. Those priests not renouncing and not departing formed the sub-category of traitors known as priests.

The Convention provided the legal framework within which these four populations were targeted in exercises of the ex officio political power of members of the Revolutionary Tribunal, military tribunals, and a Revolutionary Army. It was the function of the Revolutionary Army to terrorize the peasants into providing the food necessary to a war economy and it was the function of the tribunals to intimidate would be traitors by trying and condemning to death those falling into the other three of our above target populations, including an additional category of Republicans branded traitors because of suspicions aroused in factional disputes. Chief among these factional disputes had been the question of what to do with the deposed king; the members of the Convention who had resisted condemning the king to death soon found themselves labeled traitors.

By April 5th, 1793, the Convention had provided an arsenal of laws defining the activities that would place one in the target populations:

There was death for any emigré--for anybody who could not show that he had been in continued residence since

May 9th, 1792. It was not necessary to prove the crime of having emigrated; it sufficed if the accused were unable to bring evidence to the contrary. There was death for any priest who, not having taken the oath before March 23rd, had avoided the transportation decree or returned to the territory of the Republic. And there was death for whosoever was convicted of having written or printed works tending to dissolve the Convention, or counselling murder and pillage. (Lenotre, p. 58)

What is so singularly striking about the second stage of The Terror is not that it differs structurally from other prototypical occurrences of terrorism but the almost unlimited scope of individuals who were potential members of the target population. This unlimited scope resulted from the sweeping net of a decree of the Convention passed April 5th, 1793, together with the Law of Suspects which was passed on the 17th of September, 1793, and was capped by another decree of the Convention passed October 29, 1793.

The decree of April 5th authorized the chief prosecutor of the Revolutionary Tribunal, Fouquier-Tinville, to:

prosecute either by virtue of his office, or on the accusation of the constituted authorities or simple citizens. (Ibid., 57-8)

To this freewheeling authority to prosecute, the Law of Suspects added an equally freewheeling definition of traitors in such clauses as the following:

...those who, either by their conduct, relationships, suggestions or writings, have shown themselves to be partisans of tyranny... (translated by Michael Carter in Rapoport, p. 137)

The last full measure of freewheeling authority was added by the decree of October 29th:

Should it happen that the trial before the revolutionary tribunal has lasted three days, the President shall

open the following sitting by asking the jurymen if their minds are sufficiently made up. If the jurymen reply in the affirmative, then sentence shall be delivered. (translated in Lenotre, P. 113)

All the activities of the tribunals under the sweeping authority of these laws and decrees were undertaken to serve the ideal state on the assumption that those who resisted the authority of the Committee of Public Safety were evil and could be killed or terrorized as a means to the END. The sweeping scope of the second stage of The Terror was a function of the background beliefs of the terrorist leaders, Robbespierre and Saint-Just amongst them, that the END they sought was extremely valuable, that those who failed to accept their authority, which was assumed to be an expression of the "general will", were following a corrupt "private will", and that the people, in the form of juries and the Revolutionary Army, could not fail to correctly distinguish the good from the evil.

The Terror has the same general features as the Wily Self-seeker example and the Tan War example. These three examples only differ from one another in having different variations of the general features differing in terms of what kind of power is exercised, who is targeted and how large the target and audience populations are. Thus although these three examples are all the same in terms of being prototypical terrorism they are quite different in terms of their specific features; two being examples of internal war terrorism (one of which was an example of terror from below and the other an example of terror from

above) and the other being an example of non-political terrorism. Empirical generalization over all of prototypical terrorism is likely to be fruitless given the large number of possible variations. Political scientists are likely to want to restrict their attention to internal war terrorism and international terrorism and to make different generalizations about terror from below than for terror from above. Sociologists and criminologists are likely to be just as interested in non-political terrorism, such as that of Wily Egoist.

I take it that this exposition shows that it makes perfectly good sense to talk about terror from above and that there is no reason to restrict terrorist agents to those operating without the benefit of political authority. Although terrorism from below in internal war terrorism is typically given more attention it is essentially the same as terror from above, differing in being denied the exercise of the political authority of official nation-states. But, as the analysis of The Tan War shows, terrorists from below can exercise something very much like the political authority of official nation-states.

This analysis of the matter of comparing the terrorists to the victims shows that there are numerous empirically interesting forms of prototypical terrorism. Now we must turn to the second matter of investigating the various ways

in which the terrorist leader and the terrorist agent are related, that is to the question of 'How are the terrorists organized?'

The first point that needs to be made is that in an occurrence of terrorism a person may act alone in which case there is no distinction between a terrorist leader and a terrorist agent. In this case we should call the person playing dual roles just 'the terrorist'. An occurrence in which a terrorist plays these two roles would be a kind of derivative terrorism. An example of this kind of derivative terrorism can be shown by altering the Wily Egoist example so that Wily operates singly, rather than as the head of a criminal organization, that the person who purchases the tampered drugs does this without the advice of the druggist and that the purchaser consumes the drugs, then Wily is both the terrorist leader and the terrorist agent. Such a change should have no effect on a judgement that this scenario is an occurrence of terrorism. All of the other features of prototypical terrorism are present in such a scenario including the key features of exercising power over a target population and intending terror in an audience population. This type of derivative terrorism is so close to prototypical terrorism as to be nearly indistinguishable from it.

Various categories of terrorism can be discerned by categorizing the power relationship that exists between the terrorist agent and the terrorist leader. This could range from some kind of partnership in which mutual planning and

debate took place before the strategy was settled upon, which we could call 'conspiratorial terrorism' to simple purchase of the services of the terrorist agent by the terrorist leader. This would yield 'terror for hire'. But the most empirically interesting fact about the relationship between the terrorist agent and the terrorist leader concerns the need organizationally to isolate the two from one another especially in terror from below.

Historically the most efficient way to put a stop to a campaign of terrorism from below has been for the political elites to penetrate the terrorist organization with informers. The key terrorist leaders have been identified, arrested and imprisoned or executed. In order to counter this strategy terrorists have adopted cellular organizations. A terrorist from below organization typically is structured into numerous small operational cells with five to seven members each. These are often arranged hierarchically and key individuals will usually be a member of one other cell either higher or lower in the hierarchy. In this way the damage to the terrorist organization from the penetration of a cell by an informant can be minimized. Such security precautions may be necessary in international terrorism as well because enemy intelligence agents may attempt to penetrate an international terrorist network just as government elites may attempt to penetrate a terrorist from below network. This cellular organization may result in occurrences of terrorism which are either more or less full-

featured than prototypical cases. The cells low in the hierarchy typically carry out the duties of the terrorist agent on the directions of higher cells, with the individuals having dual cell membership serving as the couriers. In simple prototypical terrorism the highest cells would have complete operational control over the activities of the lower cells. But two things may complicate this picture.

Frequently there is great pressure for action from cells low in the hierarchy even if the higher cells can see no useful purpose in acting at a particular time. Many of the occurrences of terrorism of the IRA, especially during the Bombs for Britain campaign were the result of pressure to act brought upon the leadership of the IRA from below or even were acts by lower cells without the specific guidance of higher cells. In such occurrences there really is no true terrorist leader because there is no one conceiving a strategy that the acts will serve other than the members in the lower cell having a vague notion that they are doing the only thing they can to pursue their END. Since this lack of a terrorist leader makes such occurrences non-prototypical, they would be derivative forms of terrorism. But to say that they lack a terrorist leader is also to say that the members of the cell carrying out the act lack well thought out background assumptions about how such acts will lead to their END (because this is part of the definition of the terrorist leader's role), so we will need to return to this issue when discussing background assumptions. But for the

present time we must note that there are derivative forms of terrorism that lack a true terrorist leader. In such forms of terrorism the acts of terrorism are the acts of persons who are more properly just terrorist agents who are acting without the direction of their leader or outside of the power strategic basis of the terrorism that the terrorist leader has set.

The other major way in which such cellular organization may complicate matters is by leading to multiple overlapping strategies being pursued simultaneously by a particular terrorist agent. A particular low level cell may be subject to the influence of various higher cellular organizations some of which may even be controlled by nation-states. For different reasons different higher cells may support similar acts by the lower level cells. This may result in the same cell being at the same time part of two or more different terrorist strategies. I will discuss a hypothetical occurrence of this complex type when I discuss the importance of an intention to create terror in the audience population in the next section.

The feature of Terror: Generated and Intended

Thus far I have presented my account of 'terrorism' using the intuitive common language sense of 'terror'. In common language terror is conceived of as a form of fear. It is assumed, in common language, that fear denotes a continuum of states of persons and most uses of 'terror' imply that it is a particularly intense form of fear. For 'terrorism', as I define it, to be empirically useful, there must be some way of giving empirical precision to this common sense view. Having reviewed the literature on the emotions I present the following account of the emotions that provides what empirical precision seems necessary for my purposes. This account shows both that a state of terror can be empirically identified as well as that the emotions may be conceived to be a functional sub-system of the person, in the same way that the skeletal system is such a sub-system, that interacts with the cognitive system in complex ways that terrorists have been able to take advantage of in devising terrorist tactics and strategies. Terrorists have often undertood in an intuitive, but very insightful, way how the emotions function. Following a review of this account we will be in a position to discuss the role of terror in identifying prototypical and derivative forms of terrorism.

In my judgement the best current account of the emotions is that of the psychologists Silvan Tomkins, Carroll E. Izard, R. B. Zajonc and their intellectual descendants

working within the general theoretical framework known as "differential emotions theory". (Izard, 1977)

Differential emotions theory draws from a rich intellectual heritage and claims kinship with the classical works of Duchenne, Darwin, Spencer, Kierkegaard, Wundt, James, Cannon, McDougall, Dumas, Dewey, Freud, Rado, and Woodworth and with the more contemporary works of Jacobson, Sinnot, Mowrer, Gellhorn, Harlow, Bowlby, Simonov, Ekman, Holt, and Singer and many others. All of these scientists, representing several different disciplines and points of view, have in common a belief in the central importance of the emotions in motivation, social communication, cognition, and action. (Izard, 1977, p. 43)

According to differential emotions theory "Personality" may be thought of as a function of the interactions of "six subsystems: the homeostatic, drive, emotion, perceptual, cognitive, and motor systems." (ibid. p. 44) The functioning of each of the six subsystems is conceived to be sufficiently discreet that it is heuristically useful to mark them off as separate systems. Furthermore, experimental data point to the existence of different hardware (e.g. parts of the brain, endocrine structures, etc.) which can be conceived of as realizing the functioning of the systems. The existence of the different hardware structures is seen as giving further support to the heuristic value of conceiving of the six subsystems as independent, although interrelated, systems.

Conceived as an element of personality, the homeostatic system is a heuristically useful combination of further subsystemic divisions, chiefly the cardiovascular system and the endocrine system.

Homeostatic mechanisms are considered auxiliary to the emotion system, but the hormones, neurohumors, enzymes, and other regulators of metabolism are important in regulating and sustaining emotion once it has been activated. (ibid.)

"The drive system is based on tissue changes and deficits that create signals and provide information about bodily needs." (ibid.) "Hunger", "thirst", "sex", and "comfort" are the drive systemic state exemplars. The drive system is conceived of as functioning alone and in interaction with other personality subsystems to motivate personal actions.

Differential emotions theory holds that the four remaining systems (emotion, perceptual, cognitive and motor), interacting in complex ways, primarily with one another, secondarily with the drive and homeostatic systems "form the basis for uniquely human behavior." (ibid.) The theory posits that there are "four major types of motivation: the drives, emotions, affect-cognition interactions, and affective-cognitive structures." (ibid.) I will discuss these in some detail below.

The emotional system is conceived of as consisting of "a complex process with neurophysiological, neuromuscular, and phenomenological aspects." (ibid. p. 48)

At the neurophysiological level emotion is defined primarily in terms of patterns of electrochemical activity in the nervous system, particularly in the cortex, the hypothalamus, the basal ganglia, the limbic system, and the facial and trigeminal nerves...At the neuromuscular level emotion is primarily facial activity and facial patterning, and secondarily it is bodily (postural-gestural, visceral-glandular, and sometimes vocal) response. At the phenomenological level emotion is essentially motivating experience and/or experience

which has immediate meaning and significance for the person. The experiencing of emotion can constitute a process in consciousness completely independent of cognition. (ibid. pp. 48-9)

The theory takes its name from the claim that there are ten fundamental discrete emotional state differentiae. It is held that during the course of evolution a system of social communication of internal motivational states via facial expressions was adaptive and that the phenomenological experience of emotion just is the sensory feedback from facial expression (or momentary but not visually detectable expressions or some kind of reafferent loop in the case of voluntary repression of emotion expression) together with the experience of visceral feedback generated as an auxiliary to emotion. Visceral feedback (the pounding heart, butterflies in the stomach, etc.) are considered the effects of homeostatic systemic outputs marshalled to support the personal outputs generated by the motivating emotions, e.g. fight or flight. Furthermore, visceral feedback might be an important index of the intensity of an emotion, distinguishing moderate fear from terror, for example.⁴

Differential emotions theory claims on the basis of ethnological studies (Darwin, 1872, 1877; Ekman et. al., 1972; Izard, 1971) that the "fundamental emotions are subserved by innate neural programs." (ibid., p. 6) Although modifiable in many respects, for example being inhibitable, and although emotional states may be bound in various complex inter-relations with, for example, cognitive states, the fundamental emotions are held to "have the same expres-

sions" and thus to be identifiable in "widely different cultures from virtually every continent of the globe, including isolated preliterate cultures having had virtually no contact with Western civilization." (ibid.)

The following are said to be the "ten fundamental emotions":

Interest
Joy
Surprise
Distress
Anger
Disgust
Contempt
Fear
Shame
Guilt (ibid., pp. 85-92)

We may think of these as naming discreet states of the emotional system. But these are not the only states of the emotional system or states of the organism involving the emotional system that differential emotions theory postulates. For example several of the above fundamental emotions are held to be so related to other non-fundamental states of the emotional system that one can conceive of them as being related on a continuum that is best thought of as a function of differences of intensity. "Interest-excitement" is one such continuum that differential emotions theory postulates, "fear-terror" is another. (ibid. p. 7) Differential emotions theory, then, maintains that the emotional system can be in a state of terror, for example, and only distinguishes this from the fundamental emotional state of fear by means of the notion of intensity. I shall discuss below the approximate manner in which such intensity differ-

entiations are made within the theory.

Another type of state of the organism that differential emotions theory postulates is a state of the organism involving combinations of occurrent emotional states and drive states. An example of such a state would be the simultaneous activation of the drive state of hunger and the emotional state of joy as when one, being hungry, looks joyfully on one's favorite food. Another example of such a combination would be sex-interest. Such states of the organism as result from the interaction of the emotional system and the drive system are known as "emotion-drive interactions". (ibid. p. 65)

Differential emotions theory also maintains that one emotional state of the organism may interact with another emotional state. The theory calls such systemic states as result from the interaction of two different emotional states, "emotion-emotion interactions". (ibid.) I shall, also, discuss below the approximate nature of such emotion-emotion interactions that the theory is committed to.

The emotional system is conceived of as always being in some state or another. Differential emotions theory does not claim that one is always in exactly one of the ten fundamental emotional states listed above. As I mentioned above, at least some of the ten fundamental emotions are conceived of as being subject to various levels of intensity. For example there is some evidence to suggest that the fundamental emotional state of surprise is related on a

continuum with an intensity distinct state of startle and that these are both on the same continuum as the fundamental emotional state of fear, which is likewise intensity distinct from a state of terror. The theory maintains that such differences of intensity of emotional states related on a continuum varies as a function of rate and intensity of neural firings. (ibid., ch. 4)

Concerning the combinations of distinct emotional states into a more complex emotional state, the theory postulates that there are emotion-emotion "dyads", "triads", etc. combining two, three or more discrete emotional states. (ibid., pp. 46-7) Distress-anger or fear-shame are possible dyadic emotional state combinations. Izard maintains that such dyadic, triadic, etc. combinations consist of processes of regular emotional state shifting in between the two or more discrete, simple states. (ibid., 49-50)

The emotional system is held to shift from one state to another in various possible ways. One way might be as a result of innately programmed emotion-emotion dyads. Taking interest-fear as such a possible dyad, it may be the case that a fear state of a particular intensity automatically shifts into an interest state of a particular intensity and vice versa. Thus an infant might oscillate between fear and interest while gazing at an object, not as a result in a change in stimulus input but simply as a function of innately programmed emotional state shifts.

Another way in which state shift might occur is as a result of an input to the emotional system from the perceptual system, unmediated by the cognitive system.⁵ Izard suggests that any stimulus condition which is related in significant ways with the death of significant numbers of phylogenetically related individuals might be expected to be interpreted by the emotional system, via innate programming, as a (sufficient) condition for a shift into the fear state. Fear of darkness is perhaps an example of such a state shift. (ibid., ch. 14) Our infant example from the above paragraph might be another, perhaps having been shifted into 'fear' initially by color perceptions. In more complex organisms some such innate programming is perhaps subject to alteration as a result of experience, perhaps via cognitive-emotional systemic interactions. Thus the child becomes accustomed to darkness and no longer 'fears' when experiencing it.

Conversely, the child might have long term memory of fearful images (Jaws the shark, etc.) such that, when aroused into the fearful state by darkness, cognitive processing might occur (prompted by an input to the cognitive system from the emotional system) eliciting the fearful images of Jaws. As a result of this interaction between the emotional system and the cognitive system the child's innate programming might become systemically tied into the cogni-

tive long term memory structure leading to an ontogenetic fear of darkness that is systemically quite different from an innate fear of darkness.

The Jaws example suggests that inputs to the emotional system from the cognitive system are yet another way in which the emotional system is caused to shift state. Indeed Lazarus (1984) maintains that cognition is always necessary for the generation of emotion, maintaining partly on these grounds that there is no such thing as the emotional system. Fear, he maintains, always involves a cognition of danger. However it is at least conceptually possible that rather than fear only being experientially possible post-cognition of danger, in many circumstances fear might be generated non-cognitively and actually motivate cognitive object-search processes. The same may be true for interest, distress, anger, etc. Thus in the infant, for example, the experience of emotion might be interrelated to the perceptual and cognitive systems in such a manner as to serve to spur the development of the ability to experience object perception and/or conception.

Be that as it may, cognition can cause emotion. Once I have a self concept and have stored in long term memory various ways in which I can meet my demise, coming to believe I'm confronted with one will most assuredly generate fear.

Emotion and cognition can interact in such a way as to produce a motivational state such as 'intending to flee', or

`intending to cooperate', etc. Differential emotions theory calls these "affect-cognition interactions. (ibid. p. 45) For example aboard Pan Am flight 720 I observe a man carrying a pistol. I experience fear and instantaneously shift into my searching-for-further-information-pertaining-to-this-man's-intentions-and-capabilities cognitive-perceptual practices. I observe anger-fear facial expressions on him and several confederates that I have located, also armed with pistols. These observations now serve to intensify my fear state, my homeostatic system dumps adrenaline, etc. into its cardiovascular sub-system. My heart pounds, I struggle to keep from showing terror. I believe that showing my fear can only worsen my situation. The terrorists announce that they wish to see the passports of all aboard. My fear intensifies and I wonder, "Should I eat it, should I cooperate?". I conclude that there is nothing I can do, I must cooperate. My resolution to cooperate is an "affect-cognition interaction." My resolution to suppress my fear expression is one, too.

The production of such affect-cognition interactions is central to a prototypical terrorist campaign. My analysis of the Tan War assumes that the IRA leadership, in an intuitive way, understood that they could use fear to generate motivations in the members of the RIC that they must have considered crucial to their strategy aimed at causing the collapse of the Royal Irish Constabulary (RIC). In assassinating RIC officers the IRA motivated other RIC officers

to desert and potential Irish recruits to stay away because they created in them the affect-cognition interaction of 'fear/of assassination/ of being an RIC officer ---> intending not to be an RIC man'.

Somewhat similar to the concept of affect-cognition interaction is that of "affective-cognitive structures":

Affective-cognitive structures are psychological organizations of affect and cognition--traitlike phenomena that result from repeated interactions between a particular affect or pattern of affects and a particular set or configuration of cognitions. (ibid.)

Rather than being occurrent motivation, as the former distinction is, this latter distinction refers to dispositional personality traits that have been formed as a result of sub-personal systemic interactions involving both the cognitive system and the emotional system. Although I am not certain that Izard would be content with this explication, we might conceive of these dispositional personality traits being a function of structural changes that occur in an organism as a result of repeated affect-cognition interactions, conceived of by analogy to a computer program. For example we might think of the Palestinian Jews tendency to conceive of the British as omnipotent rulers as a programmed part of their cognitive systems that resulted from their past fear experiences in combination with their beliefs about their rulers.

Izard gives, as examples of affective-cognitive structures, traits such as introversion, skepticism, and egotism. A terrorist campaign may wish to exploit such traits. The

intentional systemic assumptions of the Irgun campaign included attributing such affective-cognitive structures to persons. For example the assumptions I have classified under the heading 'the centrality of prestige to the methods of British rule' included such structural assumptions. The Irgun leadership believed that one such was that the non-Irgun Jews in Palestine were 'complaisant' perhaps as a result of historical fear-shame interactions with cognitions about the governmental power capabilities of both Britain in Palestine and of those of their former (often Eastern European) governments. Thus the Irgun strategy was partly aimed at altering the Jews 'complaisance' by demonstrating that the seemingly omnipotent government could be affected by terrorism.⁶

If differential emotions theory, or something similar to it, is correct, the primary motivational system of the person consists of the drive system, the emotional system, and those more complex theoretical entities known as affect-cognition interactions and affective-cognitive structures. We have only briefly discussed how the emotional system may be related in complex ways to other sub-personal systems and that such interactions can result in character traits and occurrent motivations that a terrorist may wish to foster, change, or exploit. To further complicate the picture the outputs generated at the personal level as a result of the creation of terror on the sub-personal level can be conceived of as being further intended to be inputs to other

persons or even to supra-personal entities or to both or many of these simultaneously. The possibilities are very numerous.

With this defense of the empirical worth of the concept of 'terror' in hand let's turn to a discussion of the questions: 'How great is the terror intended to be?' and 'How great is the terror that is actually generated?'. Put in this way, these questions are ambiguous for they do not distinguish between the different questions: 'How great is the intensity of the emotional state?' and 'How great is the the number of individuals who are shifted into a state of terror by a terrorist act?'. I call the former of these the magnitude of intensity and the later the magnitude of scope. When disambiguated our two questions become four. First I consider the greatness of intensity.

Common language distinguishes levels of intensity within the emotional state of fear. These range from the idiom 'little bit afraid' through 'very afraid', 'scared out of my wits' and 'terrified' to 'scared to death'. Furthermore there is a growing body of empirical evidence to support our common language distinctions. Differential emotions theory identifies a particular pattern of facial expression as integral to the individual's being in a state of fear and correlates variants of this pattern of expression with intensity of fear:

Normally the intensity of fear, which varies from apprehension to terror, is correlated with the amount of tension in the various muscles in the brow, eye, and mouth region that participate in the fear expression.

One of the more evident clues to intense fear is the extent to which the corners of the mouth are drawn back, tensing and stretching the lips over the teeth. (Izard, p. 365)

In addition to the observation of differences in the tension of the muscles in the face, there is reason to believe that there are differences in the functioning of the autonomic nervous system when an individual experiences mild to moderate fear as compared to when an individual experiences intense fear. (Ibid. pp. 378-9) The two major divisions of the autonomic nervous system, the sympathetic and the parasympathetic systems are differentially dominant as intensity of fear shifts from mild or moderate to intense.

What the autonomic nervous system does is modulate internal activity to make sure that it keeps pace with the demands of external behavior and the external environment. The autonomic nervous system, in other words, serves a largely adjusting function that is based primarily on supply and demand... The key to the ability of the autonomic nervous system to fulfill its adjusting function lies in its structure--the fact that it is, in effect two systems. These systems...are generally referred to as the sympathetic and the parasympathetic systems. Although both systems innervate most internal organs, they differ in both structure and manner of functioning. They also differ in the role they play in controlling behavior. The sympathetic system mobilizes and expends energy; the parasympathetic system conserves and stores it... The postganglionic neurons in the parasympathetic system release acetylcholine (ACh), which accounts for the ability of the parasympathetic system during relaxation to enhance digestive processes while simultaneously inhibiting heart rate and blood pressure. The postganglionic neurons in the sympathetic system release the neurotransmitter norepinephrine (NE), which accounts for the ability of the sympathetic system to inhibit digestion and elevate blood pressure during stress. (Schneider and Tarshis, pp. 90-2)

The differential functioning of the autonomic nervous system as a function of intensity of fear has differential

effects on skeletal muscle tone and circulatory system functioning. In mild to moderate fear the sympathetic system increases heart rate, blood pressure, and skeletal muscle tone, but in intense fear the parasympathetic system has the opposite effect. The effect is that in the less intense forms of fear, flight from danger behaviors are facilitated but in intense fear one can be paralyzed into non-action and literally scared to death.

In addition to fear being a state which is differentiable into various intensity levels the emotional system may shift in some sort of regular way between a state of fear and some other states. Consider the following state of affairs:

I have planned to fly into Heathrow airport to attend a conference on terrorism that I would very much dislike missing. Heathrow has very recently been the sight of an occurrence in which two individuals identified as Palestinians killed, with machine guns and hand grenades, 25 persons. Imagining myself with some degree of probability a victim of a similar attack upon my arrival at Heathrow I fear going to the conference. But when I contemplate not going to the conference I become distressed at the thought of missing an important opportunity to become more informed on this important subject. I become angry at the persons who are behind the recent killings for distressing me. Time and again I review this issue, each time shifting between fear, distress and anger. I don't know how to resolve the question of whether I should go or not.

Differential emotions theory identifies my emotional system in this state of affairs as being in a state of anxiety.

[The theory] hypothesizes that anxiety as typically conceptualized consists of the dominant emotion fear and fear-interactions with one or more of the other fundamental emotions, particularly with distress, anger, shame, guilt, and interest. (Izard, p. 377-8)

Assuming that fear varies in intensity and can be bound up in affect-affect interactions such as those postulated in the differential emotions theory explanation of anxiety, must we identify some such degree of intensity of fear as 'terror' and require that for an occurrence of terrorism to be prototypical exactly that and only that intensity of a pure fear state must be intended to be brought about by the terrorist agent in the members of the audience population? I think not. To see that this is so, consider the following three strategies. In the first of these strategies the terrorist agent intends to bring about the most intense fear state: 'scared to death'. In the second a less intense form of fear, 'terror flight', is intended. In the third merely a mild form of fear bound up in a more complex anxiety state is intended.

The first example is called 'Hate-E'.

In Hate-E, a small, island nation ruled by Baby Dock, the common people believe strongly in the power of Voodoo priests. Voodoo priests are believed to be able to affect persons by doing things to doll images of them. Baby Dock has done very little to improve the economic welfare of the citizens of Hate-E and the vast majority live in squalor but manage to adequately feed themselves from year to year. However disaster has befallen agriculture this year, there is only enough food for 90% of the population. Baby Dock refuses to seek international aid. His policies are responsible for the disaster and to call for international help might lead to his fall from power. If 10% of the population starves this also may destabilize his regime and so Baby Dock orders his underlings to instruct the voodoo priests in each village to pick out ten percent of the population of each village to be scared to death by voodoo and to carry out the task within one month. The voodoo priests dutifully carry out the task. The priests have picked out old persons or persons known to have had illnesses in order to cull the population with least suspicion of foul play. Baby Dock achieves his objective; the regime is not destabilized and he remains in power.

Although this example is not fully prototypical (the target and audience population are identical), a state of the most intense fear has been intended to be created in the audience population as a means of culling the population of Hate-E as a means of maintaining the regime of Baby Dock in power under the condition of agricultural scarcity. We have, then, the typical tri-partite end structure of prototypical terrorism in which a state of fear of most extreme intensity is intended by the terrorist agent.

Next consider the second example which is called 'The Catastrophe'⁷:

On 29 November 1947, the General Assembly of the United Nations voted for the partition of Palestine into two separate states, one Jewish and one Arab. Shortly thereafter the British announced that they would terminate the mandate and withdraw their forces on 15 May 1948. Although pleased to have successfully achieved their goal of inducing the British to leave Palestine the combined Jewish leadership working through a tenuous alliance of Haganah, the Irgun and Lehi were convinced that the partition plan would have to be altered by force. The proposed Jewish state was to contain 509,780 Arabs and 499,020 Jews, hardly a promising balance with which to create a state as Jewish as England is English. Furthermore they were to enjoy no control over places, such as Jerusalem and Hebron, which they most cared about. The combined Jewish leadership was in agreement that it was necessary both to expand the territory of the Jewish state and to drive the Arab majority out of the territories they gained control over.

Plan Dalet was adopted as the strategic basis upon which to achieve their joint final ends and went into effect on 1 April 1948. Operation Nachson was the first operation following the strategic basis of Plan Dalet and it focused on carving out a corridor connecting Tel Aviv to Jerusalem by taking control of 20 Arab villages and driving off the population. Operationally the Plan operated in the following fashion:

"The Haganah and the Irgun would launch massive surprise attacks on towns and villages, bombarding them with mortars, rockets--and the celebrated Davidka. This was a home-made contraption that tossed 60 lb of TNT some 300 yards, very

inaccurately, into densely populated areas...At the same time, additional panic would be induced by Arabic broadcasts from the clandestine Zionist radio stations or loudspeakers mounted on armoured cars in the target areas. The broadcasts warned of the spread of dangerous epidemics, such as cholera and typhus, hinted at Arab collaboration with the enemy, threatened that 'innocent people' would pay the price for Palestinian attacks on Jews." (Hirst, p. 140)

The effect of the operations, such as of Nachson, of Plan Dalet was to spread panic among the Palestinian Arabs in near proximity to the villages and towns being attacked which led them to abandon their villages and towns and seek refuge in the surrounding Arab countries. In this way the joint final ends of the strategy were achieved.

In the Catastrophe example there is some overlap in the target and audience populations but they are not fully identical. Again we have the typical tri-partite structure of prototypical terrorism in which a degree of fear is intended to be created in the members of the audience population. The degree is less intense than in the Hate-E example. This time the degree intended is 'panic flight in fright'.

Finally consider the third example which is called 'The
8
Marine Barracks bombing :

In 1983 elements of the United States Marine Corps were headquartered at the Beirut International Airport as part of a multi-national force stationed in Beirut to advance French and American interests in the establishment of a non-war-torn and friendly-to-the-west Lebanon. The leadership of Iran and Syria desired to force the withdrawal of the multi-national force in order to deny the west the ability to create the client state which Iran and Syria believed the western powers sought. This would permit Syria to be the dominant power in Lebanon enabling Lebanon to be used more freely in whatever manner Iran and Syria would wish to choose in pursuing their other national objectives.

Iran and Syria assumed that both France and the United States were vulnerable to being induced to withdraw the multi-national force if they could create a blow to the national prestige. Specifically this blow to the national prestige would consist of a complex of fear-distress-em-

barassment in the leadership and population of the United States and France. We might call this blow to prestige a form of anxiety, specifically anxiety about why the multi-national force was in Lebanon and whether it ought to be. Since Iran and Syria assumed that the United States and French governments may have been unable to relieve this anxiety in any way other than by withdrawing, they assumed that if they could create it, they might very possibly force the withdrawal.

On 23 October 1983 a truck containing the equivalent of 12,000 pounds of TNT was driven past the guards of the marine headquarters building at the Beirut International airport and directly into the lobby of the building. When it detonated the entire building was turned into rubble, killing 241 soldiers and wounding more than 100 others.

The American public and leadership did become anxious; there was fear for the safety of remaining military personnel and distress over the deaths that had already occurred, the military leadership was embarrassed and unable to explain why they had failed to foresee the possibility of such an attack, and the administration was embarrassed that it was unable to explain any clearly achievable purpose for the military presence in Lebanon. In the face of such anxiety and lacking a clearly articulable military commitment in Lebanon, the American portion of the multi-national peace-keeping force was withdrawn.

In this final example we have a terrorist strategy in which the target and audience populations are entirely non-overlapping and in which the classical tri-partite end structure operates through the creation of very low intensity fear interacting with distress and embarrassment to form a state of anxiety.

I believe that these three examples show that in order for a terrorist strategy or tactic to be an example of prototypical terrorism, as far as the intended state of the audience population is concerned, it is only necessary that a state of fear of any intensity be intended. Two considerations buttress this claim.

First, in common language 'terror' is not always precisely used to refer to only intense fear. Sometimes it is used to refer to even very low intensity states of fear. One can say, 'Just thinking about death terrifies me.' and only refer to a kind of apprehension of death in which neither the facial expression of intense fear nor any of the neurophysiological markers of intense fear are present.

Secondly, although intensity of fear may be subject to empirical test and so one could stipulate a point on the continuum of fear intensity (perhaps the point at which the operation of the parasympathetic system begins to predominate over that of the sympathetic system) as the point above which one calls the state of the emotional system terror and below which one does not, this seems to have no significance from the point of view of the strategies of terrorism. For as our examples illustrate and as differential emotions theory postulates, any state of fear may have further effects at the personal level and above that someone might wish to exploit in a terrorism strategy.

If this is correct it seems to be an arbitrary choice whether we stipulate that prototypical terrorism is conceived of as an occurrence in which an intense state of fear known as terror is intended and let all other states of fear intended be conceived of as part of some kind of derivative terrorism or whether we stipulate that in prototypical ter-

rorism any intensity of fear intended is sufficient. I stipulate the latter of these conditions as part of my explication of prototypical terrorism.

However one chooses to stipulate with regard to prototypical terrorism, one can still use the intensity of the state of fear intended as a variable to taxonomize forms of terrorism. Thus one might call the Hate-E example a form of 'terror death' terrorism, The Catastrophe example a form of 'terror flight' terrorism and the Beirut Bombing example a form of 'anxiety' terrorism. The utility of inducing these various states in terms of achieving various ends is a subject for empirical investigation as well as the utility of various strategies for countering these different forms of terrorism. Of course in addition to the desired effect (which is undesirable from the point of view of the victim) terrorism, also, frequently generates both side-effects as well as undesirable effects from the point of view of the terrorist. All of these effects are likely to be relevant to the determination of the proper moral judgment, all things considered, to be made about a particular occurrence of terrorism.

Next let's consider the magnitude of scope. With this in mind compare the Hate-E, The Catastrophe, and Beirut Bombing examples again. In the Hate-E example the scope of the terror intended was relatively small; in terms of proportion of the overall relevant population of the citizens of Hate-E only ten percent formed the audience and target

population. In the Beirut Bombing example the scope was relatively large; the relevant audience population consisted of United States citizens and in this case the terrorist agent intended for the vast majority of them to be affected. And yet this distinction of scope is irrelevant to a determination of whether an occurrence is prototypical terrorism. To see that this is so consider, again, The Catastrophe example.

Plan Dalet consisted of a series of strategically coordinated acts of terrorism in which village after village and region after region were terrorized. Analytically we may conceive of all of these separate acts as one act in which the scope of the terror intended was a large percentage of the approximately 500,000 Palestinian Arabs. And yet, had the plan been exposed in some way and stopped such that only the first village attacked, Deir Yassin, turned out to be the only village attacked, the attack on Deir Yassin would still have been a prototypical terrorist occurrence. For in attacking Deir Yassin and attempting to warn the people to flee in order to save their lives it was intended that this terror induced flight should serve to expand the territory of the State of Israel and remove some Arab population from this territory. We have, therefore, our prototypical tripartite end structure in which a state of fear is intended as a linking end.

Analytically the only difference between this narrow scope version of The Catastrophe example and the wide scope

version just is the scope. I stipulate that scope is irrelevant to a determination of whether or not a terrorism campaign is prototypical. I use scope only to taxonomize forms of prototypical terrorism. For example The Terror is very similar in scope to a common analysis of The Terror Famine in the Ukraine which is believed to have taken place in the Soviet Union as part of Stalin's forced collectivization of agriculture to support rapid industrialization. Since both of these occurrences of terrorism involved multiple acts of terrorism as part of a power strategy aimed at making large scale social changes we might call both of these occurrences of 'wide scope strategic terrorism in social upheaval'.

We can compare the scope and intensity of fear that the terrorist agent actually generates with the scope and intensity of fear the terrorist leader intended. Most of the issues raised in this comparison are appropriate to the section 'How is the mediate end conceived?' for in that section I take up the question of the adequacy of the terrorist's conception of how the three primary ends are linked. Here we need only note that given that there is a gap between the intended scope and/or intensity and the generated scope and/or intensity of fear, we may wish to describe a terrorist occurrence in two different ways by alternately considering the generated fear and the intended fear.

The campaign of 1938-1939 which the Irish Republican

Army waged in Great Britain is a good example in which the terror generated was different in both scope and intensity from that intended. In this campaign, as I have explained it in chapter one, the IRA lacked the capability to carry out the S-Plan strategy in which they hoped to coerce the British into withdrawing from Northern Ireland by demonstrating that they could sabotage key British power resources necessary for a confrontation with Germany. By demonstrating this ability and communicating their conditions for ceasing such activities to the British government, they initially hoped to achieve their objective. However, as the strategy failed to have the desired effect because they lacked the resources to generate sabotage of any great scope, the strategy slowly evolved into terrorism. The new strategy called for bombings in public places such as theaters, post offices, and subway stations. The IRA leadership apparently hoped that such bombings would create a particular anxiety state and affect-cognition interaction. They must have believed that British citizens would be anxious about going to the kinds of places the IRA bombed to such an extent as to begin to pressure the British government into abandoning Northern Ireland. They must have had in mind something of this sort for the British citizens: fear of death by a bomb attack-distress at the thought of the inability to avoid going to public places-anger of the inability of the Parliament to protect me from the IRA ----> intending to pressure the members of Parliament to abandon

Northern Ireland. In addition to some particular anxiety state/affect-cognition interaction of this nature the IRA must have intended to generate this state in a very wide scope of British citizens, otherwise the scope would have been insufficient to pressure Parliament.

But as we now know even the very wide-spread aerial bombardments of World War II were insufficient to induce British or German citizens to form the kinds of intentions to seek respite that the IRA wished to instigate in the British citizens with their bombings. Because of this there was a very large gap between the terror generated and the terror intended in the IRA campaign of 1938-1939. Given this gap we may describe this campaign from the point of view of the intended affect-cognition interactions as a 'wide-spread anxiety--->to seek respite from the IRA causing campaign directed at British citizens' and from the point of view of the generated affects 'wide-spread fear-anger-disgust at the IRA----> intending to stiffen our resistance to the thugs causing campaign directed at British citizens'.

Next let's look at an occurrence in which there are complex overlapping strategies both to see how there can be occurrences of terrorism that have more features than prototypical terrorism (e.g. multiple terrorist agents using multiple strategies simultaneously with different background assumptions) as well as to see that there are derivative forms of terrorism in which the terrorist does not aim at creating terror in the audience population. Consider the

following scenario which I call 'overlapping conflicts':

Countries A and B are at war.

Country C is allied with and supports country A and country D is allied with and supports country B.

Country E supports neither A nor B because it is in an adversary relationship with each of countries A, B, C and D.

Country E is a small country in the midsts of countries A, B, C and D all of whom wish that country E would cease to exist but who lack the capacity to eliminate country E singly or jointly.

Group F is a terrorist organizational network consisting of several sub-groups: F1, F2, F3, etc. For reasons of security all of the sub-groups operate relatively autonomously from the central leadership of group F.

Group F shares with Countries A, B, C and D a desire that country E cease to exist.

Countries A, B, C and D all provide various kinds of support to group F and to some of its various sub-groups including intelligence, transportation, money and implements of destruction because of their common interest with F in the ceasing to be of country E.

Country E has adopted a policy of launching large retaliation strikes on the power resources and personnel of groups and countries it can identify as having attacked their power resources or people.

The leaders of countries A and C wish to deny country B the assistance of country D, hoping thereby that country A can prevail in its war with country B left unassisted by country D. And so the leaders of countries A and C provide group F with intelligence, planning and material support for several closely timed attacks on villagers in country E from territory controlled by the forces of country D. They reason that:

Country D will not be able to restrain group F because of the relative autonomy of the sub-groups and because public opinion within the broad community of interest shared by countries A, B, C and D against country E will make country D react in solidarity to group F requests to carry out attacks in country E. So the attacks will be carried out on country E from country D. Villagers in Country E will be terrified by these attacks and call upon the leaders of Country E to carry out their policy of retaliation. They assume that the leaders of country E will be hounded by the opposition party unless they do carry out retaliation and

will feel compelled to do so. They further assume that, because of the scope of attacks they are urging group F to undertake, such retaliations will be directed at the power resources of country D in the areas of its control near country E. It is their hope that such retaliations will lead to a confrontation of the forces of countries D and E which will escalate to open warfare, relieving country B of the support of country D in its war with country A.

So far it looks like what we might call prototypical international-conspiratorial terrorism. We have an international group consisting of countries A and C conceiving a complex power strategy in which the immediate aim is to create terror in an audience population of country E villagers, in order to aim at a mediate end of embroiling countries D and E in war, in order to aim at the END of A prevailing over B in their war.

But wait! It's more complex. We must recall that countries B and D also provide intelligence and material support to group F. Countries B and D, not having figured out what countries A and C are up to, provide necessary support to group F so that villagers in Country E can be attacked because of the following reasoning:

The villagers in country E who are to be attacked occupy territory which has been usurped from people who are members of the same sub-national social grouping as the members of group F. It is important that the members of the sub-national social group not totally acquiesce to the power of country E otherwise their claim to the territory will be ignored by the international system and country D may have to accept the sub-national social group members as citizens. But this may destabilize the rule of the leaders of country D, which we cannot accept. If we should assist group F in attacking villagers of country E, the injury done to them shall inspire the public expression of excitement and joy in the members of the sub-national group. They will not become complaisant and will continue to be motivated to pursue as a group their claim to the territory.

Group F agree to undertake the operations, indeed they have been requesting support from countries A, B, C, and D to carry out such operations for the following reasoning:

The leadership of group F separately agree with the leadership of countries A, B, C and D to support attacks on villages in country E by their sub-groups for reasons very similar to those of countries B and D. Their only difference is that they care not a jot whether country D remains stable, they do care very deeply about regaining control of their lands.

Countries B and D and group F are pursuing the same kind of strategy which, although very similar to prototypical terrorism is not the same. Because it is so similar to prototypical terrorism most people would be inclined to call it terrorism. What we need to discover is what features it shares with prototypical terrorism that make this inclination correct. If we define this as joy or excitementism we can readily see it is very similar to prototypical terrorism:

def

Joy or excitementism= An occurrence in which one or more persons exercise power over (or use power resources to affect) the members of a target population so as to create joy or excitement in the members of some audience population in order to bring about political, social and/or economic changes as a means of furthering some END.

So what has taken place when the villagers of country E are bombed by the members of group F? Something very complex. We may conceive of this occurrence as prototypical terrorism in which Countries A and C are the terrorist leader concealed-end-manipulating the terrorist agent group F. Alternatively, we may look upon the bombing as part of the joy or excitementism strategy of countries B and D using group F as their agent. Finally, since group F also con-

ceives of a complex strategy and is not just someone's agent one may look on group F as the terrorist leader and the sub-groups as the terrorist agents and simply conceive of countries A, B, C and D as sources of information and material. In this case what we have is a slightly different example of a joy or excitementism strategy. And this particular example of this general strategy is an interesting derivative form of terrorism.

Joy or excitementism shares with prototypical terrorism the characteristic double tripartite structure of aiming at sub-personal, personal, and supra-personal effects and of aiming at an immediate end, mediate end and final END. But rather than aiming at creating terror in an audience population it aims at creating excitement or joy in an audience population, again as a means of fostering, changing, or exploiting affect-cognition interactions or affective-cognitive structures.

What makes the overlapping conflicts example of joy or excitementism a derivative form of terrorism, it might be thought, is that the target population, suffers grave physical injury. But, as we have already discovered with the Machiavelli example and by reflecting on kidnappings it is not a necessary feature of terrorism that the target population suffers such injury. The feature of this occurrence that makes it appropriate to call this occurrence 'joy or excitementism derivative terrorism' even though the terrorist leader does not aim at creating terror in his audience

population, is what I call 'the reasonable assumption of harmful and fearful effect:

The reasonable assumption of harmful and fearful effect=def It is reasonable to assume that an act or acts of the terrorist agent would be understood by audience populations as implying some probability of grave physical injury to someone and that some audience population would become afraid as a result of this.

One can make this assumption of any prototypical occurrence of terrorism because in such an occurrence the terrorist agents' acts had a probability of 1 of causing the most grave physical injury to the target population, death, and the terrorist agent intended for the fearful effect that resulted from this act to occur. So the strongest possible version of this feature is actually an implication of the features encapsulated in the definition of an occurrence of prototypical terrorism. Thus in identifying an occurrence of joy or excitementism as a derivative form of terrorism we find that, although it lacks one of the centrally important features of prototypical terrorism, the terrorist agent's intention to create terror in some audience population, it still has a weaker version of that important feature in satisfying the reasonable assumption of harmful and fearful effect. In the next section we will scrutinize in greater detail the role that this assumption plays in determining derivative forms of terrorism.

I conclude that 'terror' is a centrally important feature of prototypical terrorism and that it is an empirically determinable concept. Although centrally important, I stipulate that prototypical terrorism need not aim at a precise

form of fear known as terror but that a prototypical terrorist need only aim at creating any degree of intensity of fear or any kind of complex affect-cognitive interaction involving any intensity of fear. Furthermore, since a weak version of the feature of prototypical terrorism of intending to cause fear is the reasonable assumption of harmful and fearful effect, occurrences having many of the other important features of prototypical terrorism, as the above example of joy or excitementism does, and including this assumption as a feature rather than the feature of intending fear will be derivative forms of terrorism. Both the stronger and the weaker form of this feature of prototypical terrorism can be used to differentiate kinds of prototypical and derivative terrorism by specifying the scope and the intensity of the fear both as it is intended (or as it is reasonable to assume that his acts will generate) and as it is actually generated.

The features: target and audience populations.

In this section I take up the tasks of describing various target and audience populations and of discussing how the persons in these populations may be related one to another and to the terrorist leader and/or the terrorist agent. Some of these relationships are, of course, power relationships of various kinds. In addition to the power relationships we may discover other relationships by asking, 'What definite descriptions are applicable to the target and audience populations and how are they related to one another

and to that of the terrorist leader and/or the terrorist agent?' I call the relationships discerned by asking this question, 'conceptual relationships'.

Power relationships

To begin let's consider only prototypical occurrences of terrorism in which the target and audience populations have no members in common. Let us see what power relationships must exist or contingently exist, given human psychology, among the terrorist leader, terrorist agent, target population and audience population, in order for an event that has all these features to be possible.

Non-identical target and audience populations.

In order to discuss power relationships, let's begin by recalling the overlapping conflicts example. Assume that one of the terrorist incidents in our overlapping conflicts example consisted of group F1 as the terrorist agent exercising power over the target population by hijacking a plane operated by country E and killing all and only those passengers on board. Let us assume that this incident was assisted and supported by countries A and C as part of their terrorist strategy. Let us further assume that as part of their background assumptions the leadership of countries A and C assume that the citizens of country E will quickly become informed of the hijacking and come to believe that at least the citizens of country E on board the aircraft will be killed. The leadership of countries A and C believe that

all of this will result in terror in those relatives of the citizens of country E on board and lesser degrees of fear in other citizens and that when the actual deaths become known to the citizens of country E great emotional pressure to avenge these deaths will result. We may conceive of this as a shift from terror or fear to rage in the emotional systems of the citizens in country E that the leadership of countries A and C expect. This emotional pressure, also partly a function of the other incidents that are part of their overall design, may be sufficient to trigger the war between countries D and E that they seek.

The first relationship to note in this example is that both the terrorist agent and the target population are used by the terrorist leader as 'power resources' in order to affect the audience population. So far I have merely defined 'power resources' and used a few obvious examples. It is now time to provide a fuller understanding of this concept by way of other examples. We can then see exactly how it is that both the terrorist agent and the target population are power resources used by the terrorist leader in our overlapping conflicts example.

First let's review the definition of this term:

def
Power resource = An instrument that can be used by A to manifest power over B.

Now the task is to show that group F, as the terrorist agent, and the target population were both used as power resources. This is easily done.

Consider the terrorist agent first. It can be shown to be a power resource very simply. The simple point is that the terrorist leader knows that some of his acts can yield acts of his agent which will kill members of the target population. So the terrorist leader can use the terrorist agent as an instrument to bring about desired effects in the target population. Of course since the terrorist agent is a person instead of just an inanimate object like a gun and he is used by getting him to act, the acts of the terrorist agent of using this instrument will have to be acts of persuasion or coercion for example, rather than acts of pulling a trigger but the essential principle is the same, i.e. using something other than the self to bring about changes in some third thing.

That the target population is, likewise, being used as a power resource is just as simple a point. All we need to do, again, is show in a sketchy way how acts of the terrorist agent yield states of the members of the target population (numerous persons being in the dead state) which in turn yield states of terror in the members of the audience population. Common sense psychology tells us, for example, persons do tend to become terrified when they conceive of themselves as relevantly similar to person they know of who have died. Common sense tells us that they fear they, too, may meet their demise in this way. So our common sense psychology tells us the terrorist agent can do something to the target population that will lead to the audience popula-

tion shifting into a state of terror. And so a terrorist leader can make assumptions such as these as part of his background assumptions and, if he does, it can be said of him that he uses the target population as a power resource, in connection with his use of the terrorist agent as a power resource, to affect the audience population in much the same way as a mechanic might connect two tools together in order to turn a particular screw. The, at least, prima facie moral implications of this should be obvious.

Given the above explanation of how the terrorist agent and the target population turn out to be power resources in this version of the overlapping conflicts example, we can say that the target population is being used by the terrorist leader via a 'chain-like power relationship' in order to generate terror in the audience population. Given certain empirical assumptions about the psychology of human beings we can make the following contingent claim about the way the power relationship between the target and audience population in prototypical terrorism functions: the effects generated in members of the target population are intended to attract the attention of the members of the audience population.

That the above claim is a contingent fact based on empirical claims is shown by the following: Suppose that differential emotions theory, or something like it, is true. Then it is the case that a person has (among others) an emotional system, a cognitive system, and a perceptual sys-

tem. Let 'terror' be an emotional state and let 'attending to x' be a state of the person's cognitive system in which the cognitive system is engaged in various ways in processing beliefs about x. Perhaps a person's emotional system and cognitive system interact in such a way that when one entertains certain cognitive beliefs about x one is motivated by one's emotional system to gather data through one's perceptual system in order to obtain more information about x for one's cognitive system. My earlier common sense description of how I would react if I believed that I perceived a person holding a gun while I was aboard an airliner seems to fit this model. Now it might have been the case (or it might some day be the case) that persons had evolved so as to function in such a way that certain complex states of affairs such as being confronted by a person holding a gun are processed by the perceptual system and, without the mediation of the cognitive system, channeled directly to the emotional system resulting in the generation of terror. It might have been the case that so many human beings had died from gunshot wounds that such a perceptual-emotional system direct tie-in of the above kind was evolutionarily adaptive by way of motivating immediate flight from the danger of death by way of another person shooting one. In that case, letting x be 'a person holding a gun pointed in my general direction from relatively close range', the perception of x would lead to the emotional state of terror without the intervening cognitive state of 'attending to x'.

However persons have no innate structures which generate a state of fear in them merely by being in the presence of a gun. It would be a very odd sort of terrorism which relied on any such phylogenic fears rather than those which are generated with the help of cognitive states of attending to certain features of the environment. We have discussed a phylogenic state of fear that may result in infants from the perceptual state of darkness. I suppose one could, if one were diabolical enough, cook up a strategy in which one used this phylogenic darkness fear in order to create some kind of macro changes of sufficient scope to serve some END such that this strategy would be an instance of nearly prototypical terrorism. But any such strategy would seem so far fetched that we are safe enough in claiming that it is very highly probable that, for any given prototypical terrorist strategy, the terrorist leader in prototypical terrorism must intend to attract the attention of the members of the audience population to the effects generated in the target population as a means of generating terror in the audience population. And so it is a contingent fact that prototypical terrorism is (with very high probability) always an instance of the more general power strategy that I call 'attentionism'.

def

Attentionism = An occurrence in which one or more persons exercise power over (or use power resources to affect) the members of some target population so as to attract the attention of the members of some audience population to the effects generated in the target population in order to bring about political, social, or economic changes as a means of furthering some END.

First (almost always) the terrorist agent must attract the attention of the members of the audience population and then, given that other contingent facts obtain, the members of the audience population will be terrorized.

Another important fact is that it is contingently true of certain beliefs held by members of the audience population about what has happened to the target population that they will generate terror in the audience population. Exactly what beliefs will generate terror is extremely variable. Consider the fact that during the late 1840s and early 1850s in the Irish Land War threatening letters and simple assaults on bailiffs and process servers were considered terrifying and outrageous acts. (See chapter 1) Also consider how people who believe in magic or occult powers can be terrified of seemingly innocuous items and/or what, to us, seem the acts of relatively powerless individuals.

All instances of attentionism, however, are not instances of prototypical terrorism. Some are prototypical terrorism, some are derivative forms of terrorism, and some are not any kind of terrorism at all. Exactly what else an occurrence of attentionism is in addition to being that is a function of the presence or absence of the feature of a terrorist leader intending to cause terror in the audience population or alternatively whether one can make the reasonable assumption of harmful and fearful effect about this occurrence of attentionism. In fact, when speaking of attentionism, since attentionism can fail to be any kind of

terrorism, we should call the agent who conceives of the strategy the 'attentionist leader' rather than the 'terrorist leader'.

Recall the original overlapping conflicts example in which the leaders of countries B and D intended to have citizens of country E killed as a means of creating joy or excitement in the stateless compatriots of the members of group F. We called this strategy an example of joy or excitementism derivative terrorism. But we can now also see that the leadership of countries B and D must also have aimed at attracting the attention of the stateless compatriots of the members of group F to the fact that group F was doing grievous physical injury to citizens of country E as a means of generating joy or excitement in the compatriots of group F. Thus the leadership of countries B and D were practicing a variety of attentionism which was also a derivative form of terrorism. Earlier I showed how this was a derivative form of terrorism, now I want to focus on the issue of using the members of the target population as a power resource to attract the attention of the members of the audience population, because this is a key functional relationship between the target and audience population in prototypical terrorism with non-identical target and audience populations.

Whole books have been written on the efficacy of doing violence to someone as a means of drawing the attention of someone else. Some of these authors even define terrorism

as the use of violence in order to communicate a message.⁹
Let's consider various hypothetical occurrences of attentionism, some of which involve the doing of grievous physical injury to a target population and some of which don't, in order to see that it is the reasonable assumption of harmful and fearful effect or the stronger intention to create fear that is the feature that allows us to call an occurrence of attentionism also an occurrence of terrorism.

First let's consider a variety of attentionism in which the power resource used to affect the target population is a large amount of money to be given to the members of the target population. Assume that the attentionist agent is the host of a television game show. Call this game show 'Squeals of Good Fortune'. Squeals of Good Fortune is somewhat like the overlapping conflicts example in that there is more than one attentionist interpretation of it such that there is no single answer to the question, 'Who is causing the attentionism?' In one interpretation, we make the attentionist leader the board of directors of a large corporation who are the commercial sponsors of 'Squeals'. In another, we consider the attentionist leader to be the board of directors of the television company that produces Squeals. Both of these interpretations would be nearly identical except with respect to identifying the attentionist agent. So let's consider only the first interpretation

in which the large commercial corporation which sponsors Squeals is the attentionist agent. Their attentionist strategy:

We shall pay some television network to use some sort of randomizing device to give what the average television watcher would consider large sums of money to our target population of game show contestants. This will generate squeals of delight from the target population which will be viewed by the audience population. Since people seem to be greatly interested in ways in which persons acquire large sums of money, many persons' attentions will be drawn to watching Squeals. In watching this they, too, will become excited and interested. Since there is some evidence that this excitement and interest will transfer to the products shown in advertisements on Squeals, we can expect that the audience population will change their buying habits in favor of the products we advertise on this show, thereby achieving our END of increasing our profits.

Contrast the Squeals example with the following account of an attentionist strategy said to have been carried out by Fidel Castro in his campaign to oust Fulgencio Batista from control of the governmental apparatus in Cuba in the 1950s.

Given Cuba's almost total economic and political dependence on the United States, Castro's strategy aimed at portraying his movement in the Sierra Maestre as a credible alternative to Fulgencio Batista. His goal was to alienate American public opinion from Batista and thereby force the US government to cut its support for the unpopular ruler. As part of his movement's strategy to attract attention the world-famous Argentinian motor racing driver Juan Manuel Fangio was abducted from the Lincoln Hotel in Havana. Batista's police was unable to trace the whereabouts of the champion and the media attention focused for weeks on the kidnapping. Not only was the inefficient Batista regime humiliated and foreign attention directed on the injustices committed by the dictator, the kidnappers received also favourable publicity from Fangio himself, who, upon release, praised them for the good treatment he had been given. (Schmid and de Graaf, pp. 20-1)

The structure of the Fangio abduction is of an attentionism campaign aimed at drawing the attention of the public in the United States of America to the persons re-

sponsible for the kidnapping in order to utilize this state of attention in order to provide the American public with information which the attentionist leader believed would lead the American public to pressure their government to drop support for Batista which, given the background assumptions held by the attentionist leaders, was believed to lead to the collapse of the Batista regime and Castro's rise to power. Background assumptions about how certain institutions operate (such as the American press and the Senate and Congress of the United States) when faced with a negative reaction from the American public to their government's practices were key background assumptions of this attentionist strategy.

If this is the correct structure of the Fangio kidnapping strategy, then it appears that the attentionist leader, in directing his agents to kidnap Fangio, may not have aimed at creating any state of fear at all, rather the aim was to attract attention in order to provide information to the cognitive systems of the American people in order to capitalize on a dispositional trait (likely one of the kind Izard calls an affective-cognitive structure) of demanding that their government abandon support for a foreign government that performs acts that most American people believe are wrong.

Contrast both the Squeals example and the Fangio kidnapping example with the overlapping conflicts example (the version in which the aim was to create terror in the citi-

zens of country E). All three of these examples are occurrences of attentionism, yet I claim that the overlapping conflicts example is prototypical terrorism, the Fangio kidnapping example is a derivative, non-prototypical terrorism, and the Squeals example is not any form of terrorism at all, but a form of joy or excitementism. Since both the Squeals example and the Fangio kidnapping example share the same tri-partite end structure with the prototypical overlapping conflicts example (and all three are forms of attentionism), I claim that the relevant feature of attentionism that is used to determine whether an occurrence of attentionism is an occurrence of prototypical terrorism is the particular aims of the different attentionist leaders.

In the prototypical overlapping conflicts example the terrorist leader intends, as an essential link of his power strategy, to create fear in the emotional systems of the members of his audience population. In the Squeals example the type of power used to affect the target population was 'giving to B large sums of money'. Now doing this to a person can rarely be used to terrify someone whose attention is drawn to this fact. But, as I pointed out earlier, exactly what states of affairs terrify someone is a contingent fact of individual psychology. One could even cook up an example in which giving large sums of money was done in order to terrify an audience population. Suppose you knew that someone, Oscar, had threatened a group of people with ruin should he ever get enough money to, say, bribe the

local law enforcement officers. Suppose you knew that people would abandon their homes in terror and flee, if they knew that Oscar had gotten his money. Suppose you wanted their property and fixed it so that Oscar got the money needed to terrorize them on the Squeals of Good Fortune show in order to induce the people to flee in order to have their property. Then you are a terrorist, almost a prototypical one. In the absence of this kind of knowledge, we have no reason to suppose that the giving of large sums of money to persons on Squeals of Good Fortune is part of a terrorism campaign.

But the case is different in the Fangio kidnapping example. Usually some people do become terrified when others are kidnapped and even if Castro did not conceive that terrifying others was an essential link of the strategy followed in his kidnapping of Fangio, he knew or ought to have known that others would become afraid. Furthermore the best explanation of exactly why it is that kidnapping Fangio was able to draw the attention of the American public is that people typically draw the conclusion, upon hearing of someone's kidnapping, that the person kidnapped faces some real probability of dying. Now when people draw this conclusion many of them become fearful or terrified, too, some because they have a great interest in the welfare of the kidnapped person, others by imagining what it must be like to be the wife or friend of Fangio. It may just be the fact that the exercise of power in this example is generally fear

or terror provoking that makes it newsworthy enough to attract the attention of the persons Castro wanted to attract. Furthermore, differential emotions theory gives us reason to believe that fear and interest may very well frequently be bound up in affect-affect interactions of the kind we speculated about when we said that an infant may oscillate between fear and interest when exploring a new object. Therefore, it is not at all far fetched to speculate that it may be because we have an innate tendency to oscillate between these emotions that makes it profitable to market sensational news.

Consider the likely effects of an attentionism campaign which repeatedly pulled the Fangio sort of kidnapping in which, after a few days, the captive was released and testified that he was treated very well and that the kidnappers were all very nice people. Suppose this kind of kidnapping was the only kind occurring in a society. I believe that very soon the implication of possible harm from such kidnappings would not be drawn by the audience population and such a kidnapper would be considered an odd sort of person not worth attending to. If some kind of amateur psychology such as this was among Castro's background assumptions, the Fangio kidnapping case would be prototypical terrorism. But even though we lack the information that would justify a claim that Castro made this psychological analysis as part of his background assumptions, it is still correct to call the Fangio kidnapping a derivative form of terrorism because

we can make the reasonable assumption of harmful and fearful effect about it. We just do assume when a person is kidnapped that there is a relatively high probability that he will suffer grave physical injury and many persons who care about this sort of thing happening to people will shift into some kind of a state of fear upon hearing about it, if only a mild affect-cognition interaction state of fear ----> that the kidnapped victim may die.

Of course the lower the probability that the target will suffer grave physical injury the less prototypical an occurrence of derivative terrorism is. In fact we can specify an even weaker version of the reasonable assumption of harmful and fearful effect that indicates what it is that makes things such as the punishment of children seem weak forms of terrorism. Let's call this 'the reasonable assumption of fearful effect, weak version':

def
= It is reasonable to assume that an act or acts of the attentionist agent would be understood by some audience population as implying some probability of some harm to the target and that some audience population would become afraid as a result of this.

Identical target and audience populations

In the Hate-E example the target and audience populations were identical and thus by definition Hate-E was a derivative form of terrorism rather than prototypical. In many occurrences of terrorism the distinction between the target and the audience population is rather hazy; they are

not so much identical, as in Hate-E, but overlap to such a degree as to be almost indistinguishable. Consider the following example:

Coal Valley is a small town of 25,000 persons all of whom are dependent in one way or another on a single business enterprise: Absentee Coal Enterprises, Ltd. (ACE, Ltd.). ACE, Ltd., through a series of legal and illegal maneuvers, has managed to acquire total ownership of all of the coal rich land surrounding Coal Valley. They, also, own all the real estate property in Coal Valley. It is impossible to run a private enterprise in Coal Valley without the approval of ACE, Ltd., because the monopoly on real estate gives ACE the power to put anyone out of business they choose to. Furthermore many businesses, such as lumber and building materials enterprises, have virtually no one else to sell to except ACE, Ltd.

The coal miners in Coal Valley have begun speaking to one another about the desirability of joining a labor union. The management of ACE, Ltd., does not want this to continue. Slowly the management begins to let the word out that they will not tolerate a union. Foremen are spoken to and told bluntly that if the men they supervise get active in pushing a union, they will be out of a job. The foremen begin to tell the men that ACE means to make sure that the mines do not become unionized. Managers make it a point to say a few words to each of the miners about what a mistake it would be to organize the mines. The managers who deal with local entrepreneurs such as lumber companies and local short haul truckers begin to talk to these people. The message the entrepreneurs receive is that they will be held accountable for any of their relatives who persist in attempting to organize the mines. The message they get is that they will lose their businesses, if they give any support at all to the organization effort.

In a short time the entire populace of Coal Valley is cowed. The management of ACE has made it perfectly clear that they will ruin anyone who supports in any way the efforts to organize the mines. This includes both mine workers who attempt to organize and the independent businessmen who support them either by providing financial support or even mere encouragement. The populace is cowed because they are terrified of the power that they know ACE, Ltd., can bring to bear on anyone who supports the effort to organize the mines. The management of ACE, Ltd., has only had to 'spread the word' about their intentions so that everyone in Coal Valley is aware of what they are. It has not been necessary to single anyone out as the target of different exercises of power, such as by selective firing of

union activists, because Ace's power over the populace of Coal Valley is so extensive that just letting their intentions be known to the populace at large is sufficient to terrorize the entire valley into rejecting support for unionization.

The main difference between the Coal Valley example and the Machiavelli example is that in the latter example an affective-cognitive structure of being servile to the Prince is generated in the audience population by dispossessing a randomly chosen sample of natives, whereas in the former example, a threat of ruin is communicated verbally to all of (or most of) the members of the audience population so that it seems reasonable to say that in this example the target and audience populations are virtually indistinguishable.

Given the assumption that in both the Coal Valley example and the Machiavelli example the degrees of fear elicited by the terrorist agents in the audience populations were roughly the same and both were sufficient to generate a servile population of persons subject to the power of the terrorist agent, there is little to distinguish the two examples other than the fact that in one there are virtually indistinguishable target and audience populations but in the other certain individuals were singled out to be subject to the selective application of the power of the terrorist agent. But the Coal Valley example does not have the clear identity of target and audience populations that the Hate-E example had. Although we can distinguish these three dif-

ferent occurrences of terrorism by means of these features it makes no difference in a judgement that any one of them is an occurrence of terrorism.

Conceptual Relationships

We can compare the definite descriptions of the terrorist leader, the terrorist agent, the target and the audience population in order to provide further categories for a taxonomy of terrorism. This we have already done in defining 'internal war terrorism' and 'international terrorism'. Two other categories of terrorism that emerge from this comparison are those of 'inter-group terrorism' and 'intra-group terrorism'. The former category is discerned by noting that the relevant definite descriptions indicate that one group conceptually distinct from another is terrorizing the latter. The latter category is discerned by noting that the relevant definite descriptions indicate that some members of a group are terrorizing some other members of the very same group.

In the Machiavelli example the terrorist leader and the terrorist agents were both members of the same group, some kingdom or country, and so they both satisfy the definite description 'citizens of country (kingdom) x'. The target and audience population both satisfy a different definite description 'citizens of country (kingdom) y'. This being the case, the Machiavelli example is an instance of the category of inter-group terrorism.

Not all kinds of terrorism have the terrorist leader and the terrorist agent falling neatly into the denotation of one definite description and the target and audience population falling neatly into the denotation of a different definite description. In the overlapping conflicts example we found that countries B and D were practicing a form of joy or excitementism that was a derivative kind of terrorism as well in which the target population consisted of members of country E and the audience population consisted of members of the stateless compatriots of group F. In this example the terrorist agents and the audience population fell into the denotation of the same definite description and, yet, it would be wrong to call this an example of intra-group terrorism. In this case the terrorist agent and the target population fall into different groups between whom a form of war is being waged, whether we call it internal war or some other kind, and so this would be an example of inter-group terrorism despite the identity of descriptions of the audience and the terrorist agent.

There are numerous sub-categories that one can make under the general category of inter-group terrorism. I provide the following as examples of such categories:

- International terrorism
- Class warfare terrorism
 - anti-labor terrorism
 - anti-capital class terrorism
- Ethnic group strife terrorism

With regard to intra-group terrorism, if the relevant definite descriptions are identical, then the terrorism

would be an example of intra-group or factional terrorism. For example, in South Africa there is a form of racial/ethnic strife terrorism being waged as part of an internal war being waged between supporters and foes of apartheid. There is both terror from above and terror from below being waged as a part of this internal war. But there is also intra-group terrorism being waged in which blacks who are identified as traitors are 'necklaced' which is a term used to describe a process of killing a person by circling their shoulders in an automobile tire filled with gasoline and then igniting it.

However, what is the appropriate definite description and, therefore, whether an occurrence of terrorism is inter-group or intra-group terrorism may be highly controversial. For example, was the Fangio kidnapping example one in which both Castro and Batista are to be described as 'contending élites'? If so, then it was an example of intra-group terrorism. On the other hand is Castro to be described as 'the vanguard of the proletariat' and Batista 'the protector of the capital class'? If so, then the Fangio kidnapping was an example of anti-capital class inter-group terrorism.

One final important description of the target population needs to be discussed. That is the notion of innocence. Assuming that one can adequately distinguish the guilty from the innocent one can use this distinction to differentiate two important categories of terrorism: 'targeting the innocent terrorism' and 'targeting the guilty'

terrorism. It might be suggested that an innocent target is a necessary feature of terrorism and that a definition of terrorism should include this feature. However to do so would be to devise a definition of terrorism that would result in too much controversy over its application to cases and would likely not dissolve the claim that one man's terrorist is another man's freedom fighter. Furthermore, reflection on the Beirut Bombing example should indicate that innocence is not a necessary feature of terrorism. One might recognize that the U.S. military personnel who were targeted in that act of terrorism were present in Lebanon in the midst of a civil war and that these forces were engaged in active intervention on behalf of one side of this civil war and yet one would still judge this to be an act of terrorism. This would be done despite the recognition that in war, including civil war the relevant sense of guilt/innocence is the combatant/non-combatant distinction and that the targets of this act of terrorism were combatants. I think that it is best, therefore, to reserve the concept of innocence as a feature that bears on the moral evaluation of terrorism and to leave it out of the features used to determine the denotation of terrorism.

The features: mediate end and background assumptions

How is the mediate end conceived and what are the background assumptions?

These two questions are linked and so I ask them together and focus on the following three more specific ques-

tions: (1) What are the exact social, political and/or economic changes sought by the terrorist? (2) What are the background assumptions linking the mediate end to the immediate end and the final END? (3) How adequate is the terrorist's basis for arriving at his or her conception of the mediate end as given in the answer to the first two questions?

Assume that an occurrence is properly classifiable as a tri-partite attentionism strategy and that it is either prototypical terrorism or a form of attentionism about which we can make the reasonable assumption of harmful and fearful effect. If this is the case for an occurrence, the only use to which the information gleaned in asking, 'What are the exact social, political or economic changes sought?' can be put is the further differentiation of sub-types of terrorism within the prior categories of prototypical and derivative terrorism.

The examples used in this chapter provide ample evidence to support the claim that a prototypical terrorist may attempt to further some final END through the pursuit of a seemingly endless variety of different types of mediate ends. In the Wily Self-seeker example the mediate end was to drive down the trading price of a particular drug company's common stock. We could use mediate ends of this type to denote the class of 'stock market manipulation prototypical terrorism'. In both the Machiavelli and Coal Valley examples the terrorist leaders aimed at gaining (or retain-

ing) power over some social group. In The Catastrophe example the terrorist leader aimed at removing a social group from territory desired for the social group of which the terrorist agent was a part. But suppose that when we investigate some occurrence about which we can make the reasonable assumption of harmful and fearful effect and find that the agents responsible for it lacked the intention to create fear and further lacked a well thought out conception of a mediate end that could be achieved by their act that would further their final END?

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Consider the following example, which I call Larnaca:

The Palestine Liberation Organization (PLO) is an organization of refugees from the the territory of the former British Mandate. The aim (END) of the PLO is to regain the land of Palestine lost to the Israelis in the years since 1948. Operations in the state of Israel are very difficult to carry out but there is great hostility toward the Israelis felt by the membership of the PLO and this hostility creates pressure on the leadership to carry out operations of some kind. (Hostility is defined in Izard, chapter 13.) The PLO, for reasons of security of operations from penetration by enemy agents, is operationally organized into numerous, small, relatively independent operational cells.

The hostility of the membership together with the relative independence of the cells results in operations being conducted against Israelis which, in conception, lack any clearly thought out tri-partite, prototypically terrorist strategic basis. Rather than being conducted as a result of a careful analysis and being aimed at achieving specific ends thought to lead in an expected way to their desired END, their operations are characterized as hostility motivated and conceived only in a vague sort of way as means to their desired END.

On 25 Sep 1985 at Larnaca Marina, Cyprus, an Israeli woman aboard her yacht was killed with automatic fire from an AK47 rifle, by a member of a PLO cell as she attempted to jump over the bow railing of her yacht onto the dock. The woman's husband and a friend were taken hostage aboard the yacht. Later that day both of these men were shot to death in the head. The Palestinians surrendered to the Cypriot authorities and claimed that the three killed Israelis were

Mossad (Israeli intelligence) spies. They claimed that the woman they had killed was a well known Mossad agent. As it turned out, the Palestinians were wrong about who the Israeli woman was.

The Larnaca example lacks the typical tri-partite end structure of prototypical terrorism. The occurrence has only an immediate end of killing Israelis believed to be Mossad agents and a final END of regaining the lost land of Palestine. There is no well thought out strategy in which the immediate end is believed to lead in some intended way via mediate effects to the final end. In fact the attack is much better understood as an expectable consequence of hostile and armed men organized into relatively independent cells. Is it a derivative form of terrorism?

I believe that it is a very degenerate form of terrorism. It is very degenerate because of the total lack of a strategic intentional basis. The attack was only vaguely conceived of as furthering their END by means of attacking the enemy. But since the attack was conceived of as a means, however vaguely, of furthering their END and because we are justified in claiming that the occurrence satisfies the reasonable assumption of harmful and fearful effect, it is appropriate to call it a derivative form of terrorism. This kind of terrorism may account for a very large percentage of acts of terrorism. This is most likely especially true of historical situations where inter-group warfare is taking place and the balance of power between the groups is such that neither group has much prospect either of achieving its objective or of crushing the other group as in the

inter-group warfare going on now between the Palestinians and the Israelis as well as long stretches of the history of terrorism in the struggle in Ireland. This is especially true of contemporary IRA terrorism. If such occurrences of terrorism are largely irrational (in that they lack a strategic basis) and are hostility motivated, the only prospect for ending the terrorism would likely be to eliminate the hostility between the groups. Unfortunately this is easier said than done.

I call such a hostility motivated form of terrorism that aims at a political end but lacks a strategic basis 'degenerate, political terrorism', calling it 'degenerate' to indicate that it is a feature poor form of terrorism in that it lacks relatively many of the features of prototypical terrorism. I define 'degenerate political terrorism' as 'exercises of power over a target population motivated by a desire to bring about political change and also by hostility toward the target population and about which we can make the reasonable assumption of harmful and fearful effect'.

Perhaps the most degenerate form of terrorism is 'killing for thrills' in which an individual kills aiming at the immediate thrill that comes from killing. The only features that remain making such killing for thrills similar to prototypical terrorism are a terrorist (the thrill killer), a target and that we can make the reasonable assumption of harmful and fearful effect about the thrill killer.

The answer we find to the second question of our above questions, 'What are the background assumptions linking the mediate end to the immediate end and the final END?', is useful for a full understanding of the complete strategic basis of an occurrence of terrorism, be it prototypical or some derivative form. The information gleaned from answering this question can then be used together with physical and social scientific facts and standards of rationality assumptions to answer the third question, 'How adequate is the terrorist's basis for arriving at his conception of the mediate end?'

What is the terrorist's END?

As should be clear by now, terrorism can be used in pursuit of a rich variety of different ends. It can be used to pursue economic gain, to bring about the overthrow of a hated form of government, or to foster or hinder social structural changes. It can be used by the powerful to control the weak as well as by the weak in an attempt to overthrow the powerful. It can be used by the poor in an attempt to become rich, as well as by the rich to stay rich or get richer. It can be used by persons professing theism to promote clerical control of the social structure as well as by atheists to promote secular control of the clerical structure.

If we can categorize the final ENDS of particular occurrences of terrorism as severally falling into one each

of the broad categories of 'economic end, 'political end' or 'social structural end', this categorization can be used to differentiate types of terrorism, forming the general categories of 'political terrorism', 'social terrorism' and 'economic terrorism'. Each of these broad categories can be further differentiated into sub-categories to further develop a taxonomy of terrorism.

Conclusion

To be fully prototypical an occurrence must possess all of the following features:

There must be entities of the types: persons, supra-personal entities and sub-personal entities.

Among the entities of the three types there must be: a terrorist leader, a terrorist agent, a target, an audience, a sub-personal emotional system, and a supra-personal entity such as a social, economic or political system.

The terrorist leader must act to bring about three distinct states of affairs known as the immediate, the mediate and the final END. The immediate end must be to shift the sub-personal emotional system of the audience or the members of the audience population into a state of fear of any degree of intensity. The mediate end must be a desired state or act of the supra-personal entity. The final END must be some state of affairs desirable to the terrorist agent that he believes follows in some way from success in achieving the immediate and mediate ends. In addition to these primary focus ends the target must be killed.

The terrorist leader must hold a set of background assumptions that consists of his beliefs about how the various entities function and are interrelated such that an act or acts of the terrorist agent will lead to the states of affairs specified as the immediate end, mediate end, and final END.

A taxonomy of prototypical terrorism is formed by specifying general categories of the above features. We can form a category of prototypical terrorism using only one of the features, or several, or all of them.

Derivative types of terrorism lack one or more of the complete cluster of features found in prototypical terrorism. The more of the features of prototypical terrorism in an occurrence the more nearly prototypical that occurrence is. The most important features of prototypical terrorism are the terrorist leader, the target, the audience, the terrorist leader's intention to create fear in the audience population, and an END not identical to the creation of fear in the audience population. A person may lack the intention to create fear and still be a terrorist agent, if he pursues a strategy possessing other important features of prototypical terrorism and one can make the reasonable assumption of harmful and fearful effect about him. I recognize as degenerate forms of terrorism occurrences that possess as a minimum the features of a terrorist, a target and an audience and about which one can make the reasonable assumption of harmful and fearful effect.

Now it may be objected that my explication of the nature of terrorism cannot be correct because, by my definition of prototypical terrorism, the criminal justice system constitutes a form of terrorism. But, the objection continues, surely we cannot accept an explication of terrorism that has this result, hence we must reject this one.

This objection is misguided. Although it is true that, in-so-far as those who operate the criminal punishment system do so with an eye toward using it to deter crime, acts of punishment and terrorism share the same minimal structure of prototypical terrorism it is false that the denotation of 'prototypical terrorism' and 'punishment' are identical. But whereas it is part of the meaning of 'punishment' that power is exercised over the target population because of something which the target has done which it was wrong for her to have done, this implication is not part of the meaning of 'terrorism'. Furthermore 'criminal punishment' not only carries the implication that it is for some wrongdoing, it also carries the implication that that target population has been found to have done wrong in a procedure that ensures as much as possible that real wrong-doers are correctly identified and distinguished from merely suspected wrong-doers. Because of these two implications that 'criminal punishment' carries that 'terrorism' does not, it is plausible to maintain that it is possible to give a general justification for the practice of punishing criminals whereas, as the next chapter will show, since terrorism is prima facie wrong, it is not possible to give a general justification for the practice of terrorism. Instead the burden of proof is on the terrorist to show that his acts of terrorism are justified.

It has been the aim of this chapter to define 'terrorism' while leaving open , as much as possible, the question of the morality of acts of terrorism. It will be the purpose of the next chapter to present and discuss criteria that can be used in the moral evaluation of acts of terrorism.

Endnotes:

1. See Sissela Bok, Lying: Moral Choice in Public and Private Life for a discussion of this point. See especially ch. III.
2. See Daniel C. Dennett, Brainstorms, chapter 1.
3. Karl W. Deutsch, Nationalism and Social Communication, pp. 46-59, Harold D. Lasswell and Abraham Kaplan, Power and Society, Herbert Simon, "Notes on the Observation and Measurement of Power", Journal of Politics, 20, 500-16, James G. March, "An Introduction to the Theory and Measurement of Influence", American Pol. Sci. Review, 49, 431-451.
4. See Izard, 1977, chapter 4 for a fuller discussion of the claims made in this paragraph.
5. I assume that the perceptual, cognitive and emotional systems can be defensibly distinguished. For a defense of this see Zajonc, 1980, 1984.
6. For a taxonomy of affects and affect interactions see Table 3-1, in Izard, 1977, pp. 46-7.
7. The Catastrophe is an interpretation of the flight from Palestine of over 600,000 Palestinian Arabs. This interpretation is an adaptation of that given in David Hirst, The Gun and the Olive Branch, The Thetford Press, 1984, pp. 123-143.
8. This example is an adaptation of an analysis of the 23 October 1983 bombing of the marine barracks at the Beirut International Airport by Major Jeffrey W. Wright in "Terrorism: A mode of Warfare" in Military Review, October 1984.
9. See Alex P Schmid and Janny de Graff, Violence as Communication (Schmid and Janny de Graff) as an example of this genre and for a bibliography of other such works.
10. This example is an adaptation of an analysis of an incident that took place 25 September 1985 at Larnaca Marina in Cyprus given in Newsweek, April 7, 1986.

Some cases may be so extreme that there may be no duty to use first only legal means of political opposition... Indeed, even civil disobedience might be much too mild, the majority having already convicted itself of wantonly unjust and overtly hostile aims.

Rawls

Introduction

In the last chapter I explicated 'terrorism' as a term denoting a family of occurrences identified by reference to prototypical terrorism. Using variations of the defining features of prototypical terrorism allows us to differentiate terrorism into various types. Grotius found when he defined 'war' that in order to understand and investigate war it was best to identify the nature of war in a general way as "the condition of those contending by force, viewed simply as such". (Grotius, p. 33.) Grotius did not deny that common usage tended, as it still does tend, to restrict the term 'war' to occurrences in which two sovereign governments are contending by force. But he noted that common usage was in no way an objection to his view, because "the name of a genus is often applied in a particular way to a species, especially a species that is more prominent." Grotius was interested in investigating whether it can ever be justifiable to contend by force. To define war as 'an occurrence in which two sovereign governments are contending by force' would have left out of the investigation crucially important types of forceful contests: civil and revolutionary wars, for example, as well as struggles between private

individuals. The fact that common language calls warfare between two sovereign governments 'war' sans phrase and uses two words to denote both civil wars and revolutionary wars only shows, Grotius claimed, that the name of a genus is being used to denote a particularly prominent species. This seems an eminently sensible way to proceed in an investigation of the moral evaluation of terrorism.

'Terrorism', or so I believe, is just like 'war' in being restricted in common usage to occurrences less general than the genus of which they are species. The most prevalent usages of the term 'terrorism' restricts it to two particularly prominent species of terrorism. These are what I call 'terrorism from below' and 'political terrorism with innocent targets'. The former of these categories refers to the terrorism of political revolutionaries and is neutral with respect to whether the target population are members of the political élite or not whereas the latter category is neutral with respect to whether the terrorist leader/agent is a revolutionary or a member of some political élite but picks out occurrences in which the target population consists of innocent/non-political élite persons. These are the common newspaper usages of 'terrorism'. Although I did not give a definition of the genus of terrorism in chapter 2, preferring to say that it is a name denoting a family of related occurrences identified by reference to the features of prototypical terrorism, I suppose that we could settle on a rather unilluminating definition of the genus of terrorism

that emerges from the investigation of prototypical terrorism and its derivatives. We might define it in this way:

Terrorism is the purposeful exercise of power over a target population that is fear-inspiring in an audience population.

However such a definition masks the important features of prototypical terrorism that allow us to differentiate types and by means of which in the last chapter I was able to identify the entire family of occurrences of terrorism. Thus although in my opinion this is a defensible definition of 'terrorism', I could defend it only by saying, 'Read chapter 2.'

I am interested in investigating whether an individual is ever justified in using terrorism as a power strategy or tactic as I define these terms in chapter 2. Admittedly, to ask this question could plausibly be taken to clash with common usage. Many will think that to ask the question 'Is there ever a case of justifiable terrorism?' is more like asking 'Is there ever a case of justifiable tyranny?' than like asking 'Is there ever a case of justifiable warfare?'. But this is because many people, politicians prominent among them, call a terrorist from below who is morally approved a 'freedom fighter' and only one who is not approved a 'terrorist'. And since many people think it impossible that 'political terrorism with innocent targets' could ever be justifiable, in so far as they have this kind of terrorism in mind when I ask, 'Can a resort to terrorism ever be justifiable?', they will surely think I am asking, 'Can

objectively unjust proceedings ever be justified?' But, of course, since, when I ask the question, I use 'terrorism' to refer to the genus rather than to any particular species I do not ask this absurd question at all. However, 'Who are the innocent?' is a question that will have to be investigated and we shall have to discuss whether political terrorism with innocent targets is necessarily an objectively unjust proceeding.

I begin the investigation of the question, 'Can terrorism ever be justified?' by scrutinizing the features of prototypical terrorism which give rise to the claim that terrorism is immoral. I briefly review the distinction between "prima facie duties" and "actual duties" in the next section. After reviewing this distinction I argue that, although the features of prototypical terrorism justify one in claiming that one has an obligation to refrain from acting so as to bring about an occurrence having those features, there are circumstances which can "invalidate", "terminate" or "override"¹ this claim making it permissible or even obligatory to act so as to bring about an occurrence of terrorism. In the following section I then present what I take to be generally acceptable criteria to be used in making a judgment, all things considered, of the morality of a particular occurrence of terrorism. I conclude my discussion of the evaluation of terrorism by contrasting a theoretical perspective that allows invalidating modifications to prima facie obligation claims with two other views one of

which does not allow for such modifications and another which is shown to be ambiguous with respect to this issue. I then apply the theoretical perspective which allows for such modifications to the questions 'What protections are due to the innocent?' and 'When does a group of persons have a right to their own nation-state?' because these questions seem most relevantly raised in contemporary occurrences of terrorism.

It is my hope that the answers I derive from the theoretical perspective I adopt will be seen by the reader as quite close to the pre-theoretical intuitions one has about what the answers to these questions should be and that where they are not that the over-all coherence to our views that the theoretical perspective gives none-the-less strongly supports this view.

Terrorism is *prima facie* wrong.

The distinction between 'prima facie obligation' and 'actual obligation' was first introduced by W. D. Ross in The Right and the Good. What Ross seemed to have in mind, or at least how we have come to understand this distinction, is that to say someone is under a prima facie obligation to act or refrain from acting in a certain way is to state a claim, based upon certain considerations relevant to her circumstances, that she is morally required to act or refrain from acting in the specified way. For example, if we find that Susan promised to meet Jane for lunch, the fact

that she made this promise is a consideration that warrants the claim that Susan is under an obligation to meet Jane for lunch.² In other words we might say the fact that Susan promised Jane she would meet her for lunch implies that Susan ought to meet Jane for lunch. One thing that is especially noteworthy about such claims is that their logic is nonmonotonic.

To say that the logic of prima facie obligations is nonmonotonic is to say that the implications that warrant such claims are not the same kind of implications as found in ordinary logical implications. Rather than being logical implications they are what we might call presumptive implications. In logical implication if a statement, p , implies another statement, q , then the conjunction of p with any other statement at all still implies q . In shorthand, letting the symbol ' \rightarrow ' stand for 'implies' and the symbol '&' stand for 'and', in monotonic logic if $p \rightarrow q$, then $p \& r \rightarrow q$, and $p \& r \& s \rightarrow q$, and so on. As an example of the monotonicity of logical implication consider the following logical implication. The number of planets in the solar system is 9 \rightarrow the number of planets in the solar system is odd. Letting p stand for 'the number of planets in the solar system is 9', any other fact at all conjoined with p still implies q (i.e. 'the number of planets in the solar system is odd'). For example $p \& \text{grass is green} \rightarrow q$ as does $p \& \text{the speed of light is 186,000 miles/second} \rightarrow q$.

However the presumptive implication of prima facie obligation is nonmonotonic. Letting p stand for 'Susan promised Jane to meet her for lunch' and q stand for 'Susan is under an obligation to meet Jane for lunch', although $p \rightarrow q$ is true, in presumptive implication $p \& r \rightarrow q$ may be false. This is the logic of the ordinary language expression that 'other things being equal' Susan ought to meet Jane for lunch. For example Jane may have found out after promising Susan to meet her for lunch that her child has become ill and that she must pick her up at school and take her to see a doctor at noon. In this case, letting r stand for 'Susan's child has become ill and must be taken to see a doctor at noon and Susan is the only one who can do this', $p \& r \rightarrow \neg q$ (where $\neg q$ stands for 'it is not the case that q ').

Susan's circumstances give rise to two jointly unsatisfiable obligation claims. The first may be expressed in the following way: Susan ought to take her child to see a doctor at noon. The second is: Susan ought to meet Jane for lunch at noon. Most people would say that Susan's total circumstances imply that she ought to take her child to the doctor at noon and that she ought not to meet Jane for lunch at noon. There are various ways of expressing the obligation statement about Susan warranted by the totality of her circumstances. W. D. Ross suggested that an obligation of this type be called an "actual duty" or a "duty proper". (Ross, p. 18-9) Using this terminology we can say that one

aspect of Susan's circumstances warrants a presumptive implication to a prima facie obligation claim that she ought to meet Jane for lunch but that additional evidence gleaned from the totality of her circumstances implies that she has no actual obligation to meet Jane for lunch.

Kurt Baier has pointed out that it is important:

to distinguish three different kinds of modification which additional evidence can make to a prima facie obligation claim: it can 'invalidate', 'terminate' or 'override' the claim. The first kind of evidence shows that, contrary to appearances, the person never had the claimed obligation; the second, that though he did have it, he no longer has; and the third, that he has another obligation with which it conflicts and which has a stronger claim on him. (Baier 1975, p. 578)

Let's carefully consider these three different ways in which further evidence when conjoined with evidence presumptively implying a duty can modify this prima facie obligation claim.

Baier's example of invalidating evidence is the following:

Suppose I know that Jones promised on Monday to pay Smith \$10,000 on Saturday. But now I discover that the money was promised for an assassination. Then I must withdraw my claim. The new evidence is invalidating. (ibid.)

In this example the evidence on which we based our presumptive implication that Jones ought to pay Smith \$10,000 on Saturday is that we know Jones uttered to Smith 'I promise to pay you \$10,000 on Saturday.'. But in making a presumptive implication based upon this fact about Smith's circumstances we assume that the ordinary background circumstances obtain in which an obligation arises to perform as one said

one would. We need not ascertain what all of these background circumstances are but it seems reasonable that one of them is that one is not promising to perform an act which, all things considered (including promising to do so) one ought not to perform. If it is discovered that one did promise to perform an act which, all things considered, one ought not to perform, then this would invalidate the obligation claim because it would be appropriate to call this promissory utterance a null promise, one that may appear, but does not really give rise to an obligation to perform as promised.

Consider another example as an illustration of this point. Suppose a young man supports a wife and an 8 year old child and works very long hours just in order to provide the necessities of life and a few small luxuries. Suppose that the child wants very much to have some toy that is beyond her family's means and has been pleading with her father to get it for her. Perhaps after a long day of work and in exhaustion the young man utters the following to his daughter, 'I promise that some how I will get that toy for you for your birthday.' If it is truly beyond the man's legitimate means to acquire this toy for his daughter and he realizes this fact when he recovers from his exhaustion and that he has made a promise to his daughter that he can't legitimately keep, then he must realize that he has made a null promise to his daughter. Let us say that a null promise is a promissory utterance that does not give rise to

an obligation to do as promised, but which may give rise to some other obligation. The young father in our example has raised false expectations in his daughter by his null promise and he now acquires an obligation to make amends to his daughter not because he must fail to satisfy an obligation to act as promised (he has no such obligation) but because he will greatly disappoint her when he tells her that he will be unable to provide the promised toy. It is the harm that he causes his daughter by inadvertently raising false expectations that gives rise to the obligation to make amends to her rather than a failure to satisfy an obligation he had to her to act as he promised.

In contrast the additional evidence we have about Susan's promise to Jane is not invalidating, rather it is overriding. Susan's duty to take her sick child to the doctor overrides her duty to meet Jane for lunch. Whereas invalidating evidence shows that you really never had the duty that the presumptive implication warranted attributing to you, overriding evidence shows that although you, in a sense, have the duty, none-the-less you are justified in not satisfying it. Susan is justified in not meeting Jane for lunch and thus in not satisfying this duty to her but the fact that, in a sense, Susan still had the duty to meet Jane for lunch even though she was justified in not satisfying it (because she had a stronger, incompatible duty) gives rise to a new duty that derives in some way from the overridden, unsatisfied duty. Perhaps Susan's derivative duty is to

apologize to Jane. Duties to make amends or pay reparations often arise in this fashion. Such derivative duties do not arise as a result of invalidating evidence.

Terminating evidence shows that although one did have a duty arising from the evidence warranting a presumptive implication to a duty claim, one no longer has it. Suppose you loan me money for lunch today and I say, 'Thanks, I'll pay you back next Wednesday.' This utterance of mine warrants a presumptive implication to a duty claim about me. However, if you say, 'That's o.k. I don't want you to pay me back.', then you have terminated the obligation arising from my promise to repay. I may have a different obligation to be grateful to you arising from your beneficence and which I may discharge by buying you lunch sometime at my convenience but this does not arise from my failure to satisfy an obligation that I had arising from my promise, for you have terminated this obligation.

Now let's look at the features of prototypical terrorism which warrant a presumptive implication to the claim that one ought not to act so as to bring about an occurrence of terrorism. Then let's investigate what sort of evidence could invalidate, terminate, or override this prima facie obligation.

The most immediately obvious feature that comes to mind as justifying a presumptive implication that one ought not to act so as to bring about an occurrence of terrorism is the feature of prototypical terrorism of killing the target

population. All derivative forms of terrorism have a weaker version of this feature in that they satisfy the reasonable assumption of harmful and fearful effect, which says (in part) that it is reasonable to assume that the power exercised over the target population has some probability of harming them. I assume it is uncontroversial that if we know that a contemplated action would be an act of killing or harming someone, this fact warrants a claim that one ought not to act in this way. I want to reserve the investigation of how this claim might be invalidated, overridden or terminated until after I have identified all of what I consider the most important features of terrorism that warrant a claim that one has a duty not to be a terrorist.

The next most obvious feature of terrorism that warrants a claim that it is wrong is the feature of prototypical terrorism of intending to generate fear in the audience population. Again all derivative forms of terrorism have a weaker version of this feature in that the reasonable assumption of harmful and fearful effect says (in part) that the probability of harm being done to the target population in the exercise of power over them is such that it is reasonable to assume that this exercise of power causes fear in some audience population. Again I assume it is uncontroversial that either of these facts about an occurrence of terrorism warrants a claim that terrorism is wrong.

Next let's recall that in chapter 2 I showed that both the terrorist agent and the target population are being used

as power resources in an occurrence of terrorism. Although the terrorist agent might in many occurrences of terrorism be quite willing to be used in this way it is not at all plausible to suppose that the target population would consent to being killed or harmed as a means to the terrorists' END. Additionally, in prototypical terrorism the audience population is being used as a power resource because their states of fear are being used to bring about changes in the supra-personal target (the social, political or economic changes sought). It is not at all plausible to suppose that the audience population would consent to being used in this way. The fact that terrorism involves using people as a power resource without their consent warrants a claim that terrorism is immoral. That this presumptive implication is recognized in common morality is shown by the moral condemnation expressed in the accusation, 'You used me!'.

Finally, we may divide terrorism into two sub-types based upon a division of background assumptions about how the occurrence of terrorism is supposed to work. Let us call these 'coercive terrorism' and 'manipulative terrorism'. An example of the former would be kidnapping. Typically in a kidnapping a demand is expressed together with a threat to kill the victim if the demand is not met. The only difference between ordinary criminal kidnappings and what are called in common language 'terrorist kidnappings' is that the former have as an END the enrichment of the kidnapper and the latter have a political END. In such kid-

nappings the audience is also the recipient of the threat and the holding of the target assures that the terrorist agent can carry out the threat. Since the background assumptions about how an occurrence of kidnapping is supposed to work include that the audience population will accede to the terrorist's demand because of the threat, such types of terrorism may be described as 'coercive terrorism'. On the other hand most of the examples of terrorism discussed in chapter 2, (e.g. the Wiley Self-seeker example and all of the versions of the alphabet soup example) were occurrences in which the background assumptions show that the terrorist leaders expected these strategies to succeed as a result of manipulation rather than coercion of the audience population.

Again I assume it is uncontroversial that if an occurrence of terrorism involves either of these ways of exercising power (i.e. A coerces B or A manipulates B), this would warrant a claim that such an occurrence of terrorism is wrong. Of course it may be that both manipulation and coercion are wrong because they both are ways in which one can use another without her consent. Thus the fact that terrorism may be either coercive or manipulative and that each of these adjectives justifies a presumptive implication that terrorism is wrong may reduce to the 'You used me!' ground.

The most readily recognized basis upon which common sense morality allows for a modification to be made to a

claim that one is under an obligation not to kill, harm, terrorize, use, coerce or manipulate a person is to show that such an obligation has been terminated because of the actions or intentions of the person to be killed, harmed, terrorized, used, coerced or manipulated. Much more controversial would be a claim that such obligations can be overridden or shown to be invalidated.

Most people would readily admit that someone can do something that terminates some other person's obligation not to kill her. For example if she is attempting to kill me and I can save myself only by killing her, then most people would say that I have no obligation to refrain from killing her at the cost of my own life. Most people would agree that if I can stop her from killing me by merely harming, terrorizing, using, coercing or manipulating her rather than killing her, then I still have an obligation not to kill her but my obligation not to harm (or etc.) her has been terminated. All of these obligation claims and the belief that they can be terminated may be grounded in many different ways, for example in a rights based moral theory, in a religious ethic based on sacred scriptures, in utilitarianism, or in a contractarian theory of morality. For the sake of simplicity let's focus on the obligation not to kill and, where possible, eschew theory.

Fewer persons, but still many, would allow that circumstances can arise in which one has an obligation not to kill, harm, etc. someone (or to prevent someone from being

killed, harmed, etc.) but which cannot be satisfied because one also has another obligation such that both of them cannot be satisfied and one's latter obligation overrides the former. For example it might be maintained that one's obligation as a military commander to hasten the end of hostilities or to lessen casualties to the troops in one's charge might, in some circumstances, override one's obligation not to act so as to bring about casualties among non-combatants. Thus a bombing raid on an oil refinery might be supposed to entail the deaths of non-combatants but the obligation to refrain from bombing the oil refinery on these grounds might be overridden by an obligation to hasten an end to the hostilities.

Even fewer, but still some, would allow that circumstances can obtain in which the claim that one ought not to kill someone can be shown to be invalidated. This seems to be the position taken by those who assert 'War is hell and anything goes.', an assertion which has frequently been made by those seeking to invalidate a claim that their actions in warfare have been immoral. Thus William Tecumseh Sherman, the Union general who ordered the evacuation and burning of Atlanta, Ga., during the American Civil War defended this action against charges that it was immoral arguing, "War is cruelty and you cannot refine it." (Sherman, Memoirs quoted in Walzer, 1977, p. 32) But to claim that there are circumstances in which a prima facie duty not to kill or harm or terrorize others is not just terminated but invalidated

seems to clash with firmly held common sense morality views that there are rights that persons have just by virtue of being persons. Thus it would seem that Sherman is not just entitled to assert that war is hell and defend himself on those grounds, rather the burden of defense is on anyone who would claim that an obligation claim that one ought not to kill someone else can be shown to be invalidated. So whereas I have relied on common sense morality to show that the obligation not to kill can be overridden or terminated it is necessary to show that theoretical support can be given to a position maintaining that there are grounds for making a prima facie obligation claim that one ought not to kill but that such an obligation claim can be invalidated.

It is certainly possible to read the contractarian moral theory of Thomas Hobbes in this way. We might think of the Hobbesian "NATURAL LAWES" as providing the grounds for making presumptive implications to obligation claims. Thus the "Fundamental Law of Nature; which is, to seek Peace, and follow it" and the "second Law: That a man be willing, when others are so too, as farre-forth, as for Peace, and defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe" (Hobbes, Lev. ch. 14) may be thought of as providing the ground for a claim that you ought not to kill another person. In other words we might interpret Hobbes as contending that one ought to put oneself under an

obligation not to kill other persons and this fact warrants the presumptive implication that one ought not to kill other persons but that unless the appropriate circumstances obtain this obligation claim is invalidated. Hobbes seems to suggest this interpretation in the following passage from Leviathan:

The Lawes of Nature oblige in foro interno; that is to say, they bind to a desire they should take place: but in foro externo; that is, to the putting them in act, not alwayes. For he that should be modest, and tractable, and performe all he promises, in such time, and place, where no man els should do so, should but make himselfe a prey to others, and procure his own certain ruine, contrary to the ground of all Lawes of Nature, which tend to Natures preservation. (Hobbes, Lev., ch. 15.)

In such a theoretical scheme obligations are said to arise "when a man hath...abandoned, or granted away his right". (ibid. ch. 14) Circumstances might ordinarily be the case that one ought to grant away one's "Right to everything". (ibid.) Relying on the assumption that circumstances are what ordinarily obtain one is justified in making the presumptive implication that one ought not to kill (harm, terrorize, etc.) another person. But if one finds oneself in circumstances out of the ordinary, then the presumptive claim that one ought to obligate oneself would be invalidated and one in fact would not have an obligation not to kill some other persons.

Let us say that according to this interpretation of Hobbesian contractarianism the ordinary circumstances are those in which all of the persons who interact with one another are disposed to comply with the authority utterances

of the same political authority, that it is reasonable for them to be so disposed, and that the political authority has prohibited his subjects from killing one another unless this obligation is terminated in one of two ways. The first way is for the killing of a specified individual to be done on his authority (as in the executioner carrying out a determinate individual's death sentence). The second way in which the political authority allows for the obligation not to kill to be terminated is by specifying acts of persons in general (such as anyone's attempting to kill or seriously harm anyone else without the permission of the political authority) and circumstances in which these acts take place (such as those in which it is reasonable to believe that only deadly force on the part of the victim will end the attack) in which the one person's obligation not to kill another is terminated.

Now there are three major ways in which these ordinary circumstances may fail to obtain such that the prima facie obligation claim that one ought to refrain from killing others would be invalidated rather than terminated. In the first way the persons who interact may be disposed to comply with different political authorities and the political authority each recognizes may not have prohibited the killing of persons recognizing some other political authority. Assuming that it is reasonable for at least one of these groups of individuals to be disposed to comply with the authority utterances of the authority they recognize and that it is

reasonable that the authority failed to prohibit the killing of persons recognizing the other political authority, then, following this interpretation of Hobbes, the presumptive implication to an obligation claim that one ought not to kill those persons recognizing the other political authority that follows from the first and second law of nature would be invalidated. It seems rather unlikely that all of these circumstances could obtain, at the very least it seems likely that in circumstances of multiply overlapping political authority each political authority would find it reasonable to prohibit all killing except on the above terminating grounds in order to prevent the situation from deteriorating into a war of all against all. Nevertheless such a way of invalidating a prima facie obligation claim is conceptually possible.

The second way in which a prima facie obligation claim that one ought not to kill others based upon this interpretation of Hobbesian contractarianism can be shown to be invalidated is in the circumstances of political collapse. In such a situation lacking a political authority which one recognizes as having authority over one and whose prohibitions of killing one recognizes as binding one simply has the law of nature obliging in foro interno. In such a situation, in so far as it is reasonable to believe that killing some person is necessary to one's survival, a prima

facie obligation claim that you ought not to kill that person arising from the law of nature is shown to be invalidated.

The final way in which a prima facie obligation claim that one ought not to kill another can be shown to be invalidated is really a variant of the second way. In this set of circumstances the persons who are interact with one another in the circumstances of political collapse are not private persons but public persons. The circumstances in which one sovereign encounters another are just like political collapse in that persons (in this case public persons) interact in a situation in which they lack any political authority which each is disposed to obey. In such a situation lacking a political authority to which both sovereigns have renounced their natural right to all and which meta-sovereign prohibits them from killing one another, any reasonable suspicion that killing the other sovereign (or the other sovereign's subjects) is necessary to the preservation of the sovereign invalidates the prima facie obligation claim based on the law of nature that the sovereign ought not kill the other sovereign. Hobbes could have used his in foro interno/in foro externo distinction to show that the sovereign is prima facie obligated to seek peace with other sovereigns and that it is reasonable for him to obligate himself by renouncing his natural right to all things and contracting peace with other sovereigns. However to have done so and to have reflected that peace between sovereigns

is possible on these grounds would have undermined his argument that reason dictates that private persons must contract with each other to set up an absolute sovereign. For if peace is possible between sovereigns on these grounds why couldn't private persons do the same thing and dispense with the absolute sovereign? Thus although this interpretation of Hobbes is a possible interpretation of his contractarianism it would be rash to maintain that Hobbes would have embraced this reading.

I think that it is clear from the above that it should be possible to reach widespread general agreement that terrorism is *prima facie* immoral. This being granted there may be circumstances in which the apparently sound claim that one ought not to engage in terrorism can be shown to be defeated either by being terminated, overridden or invalidated. In the next section I present criteria for arriving at a final judgment of the morality of an occurrence of terrorism which should be generally acceptable. However an examination of the application of these criteria to cases would show that the moral evaluation of any particular occurrence of terrorism will not be so mechanical as to provide ready general agreement about the particular moral evaluations we make.

The General Criteria For Evaluating Terrorism

In order to evaluate an occurrence of terrorism usually one must engage in three different but not altogether separable processes of evaluation. One must evaluate the end in view of the occurrence of terrorism (the END), one must evaluate the chosen and alternative available actions that result in bringing about the END and where these processes of evaluation give rise to two mutually unsatisfiable prima facie obligation claims one must determine which, if either of these obligation claims results in an actual duty. Although different, the processes of evaluation are not altogether separable for three different reasons. In the first place the morality of an action that results in bringing about the END cannot always be evaluated in isolation from the evaluation of the morality of the END. This is especially clear in cases where prima facie obligation claims are overridden. Consider again Susan and Jane from the last section. Susan's actions around noon on the day in question are properly describable as 'breaking her promise to meet Jane for lunch'. But it is clear that the evaluation of this action cannot be done simply in isolation from the evaluation of her end in view and this is shown by a fuller description of her action which incorporates her end in view into the description of the action. Recognizing this we describe her actions around noon as 'breaking her promise to meet Jane for lunch in order to be able to take her child to the doctor instead'. In the overriding modifications to

prima facie obligation claims arising from the evaluations of the END of an occurrence of terrorism and the chosen action intended to result in the END the first two processes of evaluation may yield mutually unsatisfiable prima facie obligation claims. The third process of evaluation then takes the results of these prior evaluation processes and yields a final obligation.

The second reason the processes of evaluation are not altogether separable is because sometimes, contrary to what an actor who has chosen a particular 'means' believes, a supposed 'means' to an end is in fact incompatible with that end. In this case, regardless of the moral evaluation of the action made on other grounds it would be a mistake, because irrational, to adopt such 'means'. One ought not to attempt the impossible. For example, if a man asserts that he wants a woman's loving and respectful obedience and yet he attempts to achieve this by threatening and beating her, we can say that his means are incompatible with his asserted end so that, in addition to the negative moral evaluation we make of him because he harms his wife, we can say that he is either ignorant of psychological facts he ought to know, irrational because he attempts to do what he knows is impossible, or a liar.

In the third place sometimes the end in view cannot be properly described except by incorporating into its description some kind of description of the action done to bring it about. Consider the Wiley Self-seeker example. This, as

you will recall, was an occurrence of terrorism in which Wiley tampered with capsule medications so as to bring about the deaths of consumers of these medications. It may very well be the case that Wiley is the kind of person whose END wasn't just to acquire riches and that this plot was the best way he could think of to attempt to do this quickly. It may be that Wiley aimed at having 'riches acquired at somebody else's expense'. That is, it may be that he didn't just want to be rich, rather he may have wanted to revel in the fact that he 'beat the system' and got rich at the expense of others. In this case Wiley's end in view is properly describable as 'to acquire parasitic riches', if we define a parasite as someone who "in obtaining a benefit displaces all or part of the cost on to some other person." (Gauthier, 1986, p. 96)

Bearing in mind the above three ways in which the evaluation of the ends and means of an occurrence of terrorism may overlap, I present the following general criteria of evaluation. Although some will seem to be more exclusively focused on one or the other of the three different tasks of evaluation it is important to realize that no rigid division³ of these tasks is possible.

First criterion: Justice

The end in view must be to bring about a just state of affairs.

In order to allow that the prima facie obligation claim that an occurrence of terrorism is wrong may be shown to be

invalidated in the interpreted Hobbesian manner as above I say that a state of affairs is just if and only if it is not unjust. Thus in invalidating circumstances in which each of two or more individuals has a right of nature to a thing and to kill any other if it be necessary to have the thing, then their killing to get the thing is not unjust and thus the state of affairs in which they kill to have the thing is a just state of affairs.

Sometimes the use of this first criterion will be sufficient to establish that the presumptive obligation claim that terrorism is immoral (arising from the evaluation of the actions intended as means to the END) is neither overridden, terminated, nor invalidated. Assuming, as it is common and seems reasonable to do, that 'having parasitic riches' is an unjust state of affairs, the evaluation of Wiley Self-seeker's terrorism is completed by showing that this was his end in view. The prima facie wrongness of imposing costs on others cannot be shown to be overridden in Wiley's case by an obligation he has to benefit himself by imposing costs on others, there is no such obligation. Nor is it plausible to suppose that this obligation could be terminated for it is not one that can be discharged and then terminated (as in discharging one's obligation to give someone \$500.00 by giving them that sum), for an obligation not to impose costs on others is continuous, nor has Wiley been released in any way from this obligation. Finally Wiley's obligation is not shown to be invalidated for he lives in a

cooperative scheme of society, not a state of nature, and he is not so superior as not to need to bind himself to a cooperative arrangement. Wiley is no ubermensch, he's human all-too-human. All of these complicated judgments go into the evaluation of Wiley's END, the result of which is to say that Wiley's END is unjust and he ought not to seek it. There can be, then, no clash between the prima facie obligation claims arising from the evaluation of the means and the evaluation of the END and so there is no need to proceed beyond the evaluation of the END.

Of course more often this criterion is not used alone but is used instead to form a judgment about the weight of the obligation to bring about the end in view and then this is weighed against the prima facie obligation not to kill (harm, etc.) to determine if the prima facie obligation claim that one ought not to engage in terrorism is shown to be overridden in a particular set of circumstances. In such cases the extent of the justice of the end in view is measured in two ways. The first way that the extent of the justice that is aimed at is evaluated is by judging the justice of the existing state of affairs and various possible states of affairs realizable from the existing state of affairs against the standard of justice. Of course, what the standard of justice should be is a matter of some considerable debate but, presumably, the nearer to the standard of justice some realizable state of affairs is and the

farther from it the existing state of affairs is, the greater is the obligation to bring about the realizable state of affairs.

The second way in which the extent of the justice of the END is measured is in terms of the scope of justice. Whereas in the first way we conceive of a given number of individuals interacting and judge their interactions according to the standard of justice, in this second way we conceive of a group of individuals interacting (nearly) in accord with the standard of justice and contemplating acting so as to widen the scope of justice. Others may not be privileged to interact according to the standard of justice and may want the privileged to intervene on their behalf and, by intervening it may be within the power of a group of individuals who are thus blessed to widen the scope of justice. Presumably the greater the scope of the removal of injustice that one can bring about by acting in a certain way the greater the obligation one has to act in this way. Of course the standard of justice may be such that one can't act to extend the scope of justice to others. John Stuart Mill, for example, and Karl Marx both seemed to believe that just interactions are such that they must be won by the interactors themselves and cannot be arranged for them.⁴ In this case only the first of these two ways of judging the extent of the justice of the end in view would be relevant for determining the extent of the obligation to act so as to bring it about.

Second criterion: Maturity

Less objectionable methods should be tried first or until it is reasonable to suppose that such efforts would be fruitless.

One method may be worse than another either because the former is *prima facie* immoral and the latter is not or because, although both are *prima facie* immoral the former is 'more immoral' than the latter. Just as the greater the justice of the END, the greater the obligation to bring it about, so the greater the immorality of the contemplated means to the END the greater the obligation not to choose that means. This assumption is made in common sense moral-⁵ity and frequently has been given a theoretical defense.

The criterion of maturity accepts this assumption and requires that, regardless of the weight of the obligation arising from the evaluation of the END, of those methods which seem to have some possibility of serving as means to the END, the least morally objectionable method ought to be tried until it is reasonable to suppose that a more objectionable method must be used. In essence it requires not only that the least morally objectionable method be adopted but that due care be exercised to ensure that this is the case. This criterion seems to be generally acceptable and has been adopted without defense by philosophers such as John Rawls. (Rawls, 1971, p. 373)

Third criterion: Modifiability of immorality claim

No *prima facie* immoral method ought to be adopted unless careful consideration shows that circumstances exist which invalidate, terminate or override this obligation claim.

This criterion requires no defense as it amounts to no more than the requirement that one ought not to act immorally. As I cannot here answer the question 'Why be moral?', I needn't defend this criterion. However I include it as a challenge to a would-be terrorist to be clear about what her moral principles are and that, with due care, she has determined that they obligate her to be a terrorist.

Fourth criterion: Circumstantial impossibility

A method which in some circumstances would be a means to the END but which in their absence is not may not be engaged in.

This criterion rules out engaging in the third process of evaluation in which the prima facie obligation not to employ a contemplated method is weighed against the obligation to bring about the END because the method is shown, in the circumstances, not to be a means to the END. The fact that in other circumstances it would be a means is irrelevant. In the existing circumstances it is not a means and so the obligation to bring about the END cannot override the prima facie obligation not to employ methods such as killing, harming and terrorizing.

Fifth criterion: Due consideration

Due consideration must be given to the moral standing of the target and audience population in any evaluation of the nature of the prima facie obligation arising from the effect the method has on the target and audience populations.

In applying this criterion one is concerned to determine the rights borne by the members of the target and audience population and to give due consideration to the nature of

the restrictions on the activities of others that are a function of the rights which are borne. As such, criterion 5 is derivative from criterion 2 and merely highlights a particularly interesting issue. In fact this issue is crucially important to the evaluation of any occurrence of terrorism, for we will want to determine what restrictions a person's rights place on the interest (or the alleged necessity in order to achieve a just END) another person may have (be under) in using (to use) the former as the target or audience of a campaign of terrorism and equally importantly whether rights yield (or are correlated with) prima facie obligation claims that may be shown to be overridden, terminated or invalidated.

I believe that these five criteria for evaluating terrorism are generally acceptable. But their general acceptability is accompanied by and is partly a function of their generality. In order for any particular use to be made of these criteria clearly one must adopt some moral perspective from which to derive particular moral judgements. I will conclude my investigation of the question of how one evaluates an occurrence of terrorism by discussing two major substantive issues. First I will explicate three different moral perspectives in order to indicate what, if any, particular moral judgments flow from adopting each of these perspectives in the application of the fifth criterion for the evaluation of terrorism and I will adopt the last of these perspectives and indicate in some detail the particu-

lar moral judgments about occurrences of terrorism which are made using it. Lastly I will apply this perspective in giving an answer to the question, 'When is a group of people justified in claiming the right to have their own State?'. Since very many occurrences of terrorism, such as those which were presented in chapter one, are directed at establishing a State, an answer to this question will be of much use in applying the first criterion for the evaluation of terrorism, that is, "The end in view must be to bring about a just state of affairs.".

Due consideration

In showing that the general features of terrorism only warrant a presumptive implication to a claim that terrorism is wrong I have relied on common sense morality. However in arguing that this claim may be shown to be invalidated I have thought it important to provide a theoretical viewpoint that makes sense out of the assertion that an obligation claim that you ought not to kill someone, for example, can be shown to be invalidated. I have thought it important to do this because, for many people, that invalidation of such an important obligation is possible will clash with their understanding of common sense. Now that we are faced with the task of arguing in some detail just what the 'due consideration' criterion requires of a would-be terrorist, it is absolutely imperative to apply theories of morality which are articulated with sufficient precision so as to provide an answer to this question in broad outline. Such theories, either explicitly or implicitly, take stands on the way in which obligation claims are terminated, overridden or invalidated.

I have chosen to investigate the implications of the theories of three contemporary writers in order to pursue this task. I have chosen to articulate the viewpoint of Jeffrie Murphy first, for his Kantian perspective results in the judgment that an obligation not to kill someone can only be terminated, never shown to be invalidated nor overridden. This, I contend, is an extremely harsh viewpoint which rests

on a theory of value which has little to commend it and which is eschewed by modern social science. I then turn to the theory of John Rawls, whose professed methodology is to begin with the widely shared intuitions of persons living in constitutional democracies. I argue that this methodology results in an ambiguous theory when one attempts to apply the theory outside the circumstances to which Rawls has explicitly restricted it (which restricted circumstances include most of the important occurrences of terrorism). The ambiguity of the theory is precisely over the issue of whether an obligation not to kill someone, for example, can be shown to be invalidated. One concludes that to the extent that Rawls has been true to his professed methodology individuals in a modern constitutional democracy are deeply divided over the issue whether important obligations such as not to kill one another can be shown to be invalidated.

I then turn to the neo-Hobbesian views of David Gauthier and show how this theory, which allows for all three types of modifications to prima facie obligation claims, indicates we should apply the 'due consideration' criterion. However, I do not embrace Gauthier's explication of rational contractarianism in its entirety, for I point out where I think he has misunderstood the implications of his own moral theory.

Before turning to these three theories I give a general account of what it is to have a right. I do this because the debate over the morality or immorality of various occur-

rences of terrorism is likely to take place in international forums such as the United Nations or international courts where appeals to rights are quite common. If this should offend utilitarians, so be it, for whether or not rights talk is, as Bentham claimed, "nonsense on stilts" is a function of the adequacy of the theory which explicates and makes use of the term 'right'.

Rights

def

By 'A has a right' I mean = There is some A and some B such that B has some power over A and that A is entitled to make a claim that B is obligated to (or not to) manifest his power over A in some specified way.

For example, if I have a 'right to life', then there is some B who can act in some way that would kill me were he to act in this way and I am entitled to make a claim that B is obligated not to act in this way, thereby refraining from manifesting his power over me. Or I may purchase a property from someone (B), thereby acquiring a right to be provided with a clear title to that property in which case I am entitled to claim that B must refrain from acting so as to deny me my title and that he is obligated to act so as to give me my title. Of course some rights may in some sense be much more important than other rights, thus we would ordinarily think that a right to one's life is much more important than a right to be provided with a clear title to a piece of property and that a violation of the former right would be more heinous than a violation of the latter right.

If a right is an entitlement to make an obligation

claim, then we should expect a moral theory to indicate how these obligation claims are justified, to indicate whether some rights are more important than other rights and if so why, and to indicate whether these obligation claims are such that they may be shown to be invalidated, terminated and/or overridden. Let's examine the views of three widely read moral theorists and reconstruct their views in light of our distinction among invalidating, terminating and overriding modifications to prima facie obligation claims in order to see what, if any, guidance their theories can provide us in our use of the fifth criterion for the evaluation of terrorism.

Jeffrie Murphy: The Right to Life may not be overridden.

Murphy has articulated and defended a Kantian Right to Life in an article in which he discusses the concept of 'innocent' as it pertains to the context of warfare. ("The Killing of the innocent" reprinted in Wakin) In this article Murphy states that he understands 'prima facie moral wrongness' to mean, "subject to being overridden by other, more weighty, moral considerations". (ibid., p. 345) He defines an 'absolute' obligation as one not subject to being overridden and asks whether the killing of the innocent is absolutely or prima facie wrong. Although Murphy does not put it in precisely these terms, it seems fair to say of him that he holds the view that the innocent bear a Right to

Life that obliges others to refrain from killing them.

Murphy grounds this right upon the claim that it is a 'moral datum'.

If anything can be taken as a brute datum for moral philosophy, surely the principle 'Do not kill innocent babies' is a very good candidate--much more plausible for an ethical primitive than, say 'promote your self-interest' or 'maximize the general utility'...The person who cannot just see that there is something evil about killing babies could not, I suspect, be made to see anything else about morality and thus could not understand any reasons that one might attempt to give. (Ibid., pp. 351-2)

Murphy argues, although he does not put it in precisely these words, that, within the context of warfare, there are things that a person can do that terminates his Right to Life. What this precisely amounts to is that the person be in a "chain of command or responsibility--from bottom to top...engaged in an attempt to destroy you." (ibid. p. 348) Roughly, Murphy's view is that there are certain persons, within the context of warfare, whose activities constitute attempts to kill others and that such activities can terminate one's obligation not to kill them that derives from their Right to Life, presumably if this is the only way to protect one's own life. In Murphy's view those not engaged in an attempt to kill others are innocent within the context of warfare and possess an unterminated Right to Life. Murphy's investigation assumes that the terminating modifications to the Right to Life have a justification and seeks merely to discern whether this right can be overridden. Murphy never explicitly considers the question whether or not this right can be shown to be invalidated.

Although Murphy claims that it is a moral datum that there is something wrong with killing the innocent, he recognizes that an absolute (in his sense) moral principle 'Never kill the innocent' cannot be defended as a moral datum. There are circumstances, Murphy acknowledges, about which morally sensitive individuals will argue that other obligations arise in them that override an obligation not to kill the innocent; for example if you are confronted by an advancing army which is directed by persons intending to engage in severe violations of your rights, including violations of the Right to Life, and if killing persons who are unfortunately caught between you and this advancing army seems absolutely essential to stopping the advance, then it would seem that one's obligation not to kill these innocent persons is modified somehow. The question is, 'How?'

There is no settled view in the common understanding about this matter, which Murphy recognizes in saying that to adopt, as an absolute moral principle, "Never kill babies under any circumstances...[is]...a moral point of view rather than the moral point of view". (Ibid., p. 359)

Murphy specifically rejects the notion that a Right to Life could be overridden by another, more stringent duty. He defends this by arguing, from a Kantian perspective, that one's rights (which are those entitlements to make obligation claims on others which derive the Categorical Imperative) can only be modified in one way: one can forfeit one's rights thereby terminating someone else's obligation

to respect them by engaging in activities that violate someone else's rights. One can have less stringent obligations than those which derive from rights, in Murphy's Kantian view, such as duties to make others and oneself better off judged in terms of an individual's subjective preferences but these are always overridden by any perfect duty (i.e. in this theory an obligation deriving from someone's rights) which conflicts with it. Thus in the example of the invading army intent on violating one's rights, the soldiers in it have forfeited rights (including their Rights to Life, if this is the only way to stop them) by their activities of attempting to violate your Right to Life. But the innocent caught between us have an unterminated Right to Life. Murphy's Kantian view is that any obligation we have to save our own lives or those of others must be a duty of beneficence which is a function of our and other's subjective desires to live and this, as an imperfect duty, is always overridden by a perfect duty not to violate the Right to Life of the innocent. (ibid. p. 359-60) Thus Murphy is committed to the view that when one is confronted by an invading army intent on violating your Right to Life or the Right to Life of someone you are under an obligation to protect and even when the only way to defeat this invasion is by doing something that will inevitably kill individuals with unterminated Rights to Life one must surrender to the enemy. This is a harsh view indeed.

We may sympathize with the notion that a Right to Life imposes duties that are so stringent that they cannot be overridden by any conflicting duty, but then we may wonder whether there are invalidating circumstances in which a person's rights do not arise with respect to us and therefore do not impose obligations upon us. Murphy grounds his Right to Life in a "moral datum" which is really no more than the intuitions of a person who accepts the Kantian notion that a person bears an absolute, objective value that is a function of her rationality. Although, as I shall indicate below, there is a great deal of truth in Murphy's view that the Right to Life cannot be overridden, I presently reserve judgment on the question whether this right may be shown to be invalid, for we may find Murphy's Kantian theory of value unconvincing. Someone adopting Murphy's Kantian perspective, would undoubtedly argue that the fifth criterion for the evaluation of terrorism rules out, as morally unjustifiable, any occurrence of terrorism in which an innocent target population is killed. To what extent this position rules out killing and terrorizing individuals who are responsible for violations of rights other than the Right to Life is a matter for those who find the Kantian theory of value convincing to decide. But I do not find this perspective convincingly grounded and so I turn to the widely influential views of a contemporary theorist of jus-

tice to see what help his theory might be in providing guidance in our applications of the fifth criterion for the evaluation of terrorism.

Reflective equilibrium: The views of John Rawls

Rawls' methodology proceeds in a systematic way from beliefs widely held in western democratic society, as he readily admits:

We collect such settled convictions as the belief in religious toleration and the rejection of slavery and try to organize the basic ideas and principles implicit in these convictions into a coherent conception of justice. We can regard these convictions as provisional fixed points which any conception of justice must account for if it is to be reasonable for us. We look, then, to our public political culture itself, including its main institutions and the historical traditions of their interpretation, as the shared fund of implicitly recognized basic ideas and principles. The hope is that these ideas and principles can be formulated clearly enough to be combined into a conception of political justice congenial to our most firmly held convictions. We express this by saying that a political conception of justice, to be acceptable, must be in accordance with our considered convictions, at all levels of generality, on due reflection (or in what I have called 'reflective equilibrium'). (Rawls, 1985, p. 228)

Rawls work on 'Justice' is concerned, or so he admits, with articulating a coherent theoretical understanding of justice that will be commonly acceptable within a "constitutional democratic regime" because of an "overlapping consensus". (ibid., passim) Rawls maintains that

justice as fairness is not intended as the application of a general moral conception to the basic structure of society as if this structure were simply another case to which that general moral conception is applied... [A]s a practical political matter no general moral conception can provide a publicly recognized basis for a conception of justice in a modern democratic state. (ibid., p. 225)

But it seems likely that it is only because Rawls fails forthrightly to spell out certain implications of his position and restricts his discussion of its application to the non-dire circumstances of a stable constitutional democracy that he can credibly maintain that his theory will (as an unambiguously understood theory) draw the equal support of those who hold views similar to Jeffrie Murphy's as well as those (whose views I shall consider following this discussion of Rawls) who ground rights in the possibility of mutually beneficial interactions. I shall argue that Rawls has supplied a theory which is ambiguous in dire circumstances. One who intends to evaluate occurrences of terrorism can hardly expect to restrict his attention to the circumstances Rawls discusses and hope to investigate more than a very limited class of occurrences of terrorism. It seems reasonable to expect that any attempt consistently to apply the criteria of evaluation of terrorism throughout the whole range of circumstances in which terrorism can occur must make use of a general moral conception. Turning Rawls' recent article on its head, to attempt to apply his theory of justice to the whole range of circumstances in which terrorism can occur requires that we treat justice as fairness as metaphysical not political. By this I mean that attempting to extend Rawls' theory beyond those circumstances of a stable constitutional democracy requires us to interpret Rawls as taking sides in metaphysical disputes he had sought to avoid by restricting the range of circum-

stances in which it applies. The ambiguity of the theory becomes evident once one attempts to extend it into the forbidden terrain and is a result of its neutrality between a Kantian metaphysical theory of value, in particular the theory of the infinite value of rational personality, and a Hobbesian contractarian metaphysic which assumes a subjective and relative theory of value which rejects the Kantian metaphysics or any metaphysic (such as certain theistic metaphysics) which is equivalent to the Kantian in positing an objective and infinite value to personhood.

Let me outline how the theory of justice Rawls arrives at through reflective equilibrium is ambiguous in dire circumstances. I shall maintain that if one treats Rawls' theory as grounding rights on the possibility of mutually beneficial interactions, then the theory entails that sometimes circumstances are such that a person may not have rights, in that claims based on them are invalidated. On the other hand if one treats Rawls' theory as grounding non-invalidatable Kantian style rights, then it follows that in dire circumstances Rawls' theory supports Jeffrie Murphy's position. Rawls resolves this ambiguity by arguing that in the non-dire circumstances of a modern constitutional democracy it is prudent for the contractarian to act as if no one's rights are invalidated. It seems likely to me that Rawls has been true to his method and that these ambiguous implications have their source in the conflict between the contractarian tradition (as handed down to modern constitu-

tional democracies through Hobbes) and the theistic tradition (as handed down to modern constitutional democracies through Christianity). Rawls, it seems, has attempted to develop an account of justice that will draw support from the adherents of both of these disparate traditions by arguing that in the circumstances we find ourselves in modern constitutional democracies rights never, in fact, will be invalidated. Reflective equilibrium is achieved when it is shown that the Hobbesian conception that rights must be validated is accommodated to the theistic conception of their inalienability. Given favorable circumstances, Rawls can reasonably hope for an overlapping consensus about the de facto validity of what he calls 'basic rights' (Rawls, 1971 and 1985, passim) in a modern constitutional democracy.

Rawls tells us that, of the ideas

that make up justice as fairness...the overarching fundamental intuitive idea, within which other basic intuitive ideas are systematically connected, is that of society as a fair system of cooperation between free and equal persons. (Rawls, 1985, p. 231)

There are four key concepts crucially important to the question of the validation of rights in Rawls' theory contained in this statement of the fundamental 'idea' undergirding his view: 'cooperation', 'freedom', 'equality' and 'person'. As we shall see, all of these concepts are closely linked. A fifth key concept, that of 'fairness' can be safely ignored for our present purposes.

True to his aim of providing a political, rather than a metaphysical, theory, Rawls provides a political definition of a person as "someone who can be a citizen, that is, a fully cooperating member of society over a complete life." (ibid., p. 233) As in the ancient Greek ideal, a person is someone who can 'take part in...social life'. However, given our settled rejection of slavery, Rawls' view of a person includes the concepts of freedom and equality in such a way as to give the concept of cooperation a tone of reciprocity lacking in the ancient ideal.

What must be shown is that a certain arrangement of the basic structure, certain institutional forms, are more appropriate for realizing the values of liberty and equality when citizens are conceived as such persons, that is (very briefly), as having the requisite powers of moral personality that enables them to participate in society viewed as a system of fair cooperation for mutual advantage. (ibid., p. 227)

If Rawls appears to make Hobbesian contractarianism his 'fundamental overarching intuitive idea' in the notion of persons viewed as players in a game of mutual advantage, the flavor of inalienability of rights, as we shall see, is accommodated within his 'fundamental idea' in the conception of persons as free and equal players. Once again, Rawls is careful to point out that what appears to be a blending of Hobbesian and theistic views within his 'fundamental idea' is a result of reflective equilibrium:

The concern of this section is how we might find a public basis of political agreement. The point is that a conception of justice will only be able to achieve this aim if it provides a reasonable way of shaping into one coherent view the deeper bases of agreement

embedded in the public political culture of a constitutional regime and acceptable to its most firmly held convictions. (ibid., p. 229)

The Hobbesian implications of the theory, as I have already hinted, are a function of the partial view of a person as a cooperator in a system of mutually beneficial cooperation: "we think of a well-ordered society as a scheme of cooperation for reciprocal advantage...". (Rawls, 1971, p. 33) That Rawls recognizes the Hobbesian implications of this view of a person is shown when he asks the question, 'Exactly to whom is justice owed?' Or, to put it in other terms, who has rights?

Thus equal justice is owed to those who have the capacity to take part in and to act in accordance with the public understanding of the initial situation. One should observe that moral personality is here defined as a potentiality that is ordinarily realized in due course. It is this potentiality which brings the claims of justice into play. (Ibid., p. 505)

'Moral persons' are those to whom justice is owed and if you suspect that all human beings might not be moral persons because not all human beings can be players in a game of mutual advantage, Rawls shares your suspicion but prudently downplays this implication as being incompatible with the overlapping consensus he aspires to create.

We cannot go far wrong in supposing that [everyone is a moral person]. Even if [being a moral person were a necessary condition for being due the protections of justice], it would be unwise in practice to withhold justice on this ground. The risk to just institutions would be too great. (Ibid., p. 506)

It would seem that the risk to which Rawls refers is a political risk. If the Hobbesian view of rights has practical implications that the theistic conception of rights does

not on so basic an issue as who bears rights, it might be supposed that there is some risk that bitter disputes between those who espouse these disparate views on rights might lead to social collapse. Thus, it is prudent in a modern constitutional democracy for a contractarian to act as if Human Rights are always valid for all.

To see that Rawls' identification of 'being a moral person' with 'being a possessor of rights' is an uneasy compromise between the Hobbesian and Kantian/theistic grounds of rights we need to see how the concepts of 'freedom' and 'equality' are defined and related to the concepts of 'person' and 'cooperation'.

Above we quoted Rawls' views on personality. Now we need to take note of the fact that implicit within these quotes are two seemingly separate conceptions of what a person is seen as: first, as someone who can participate in a system of mutual advantage and, secondly, as someone who is 'free and equal'. The latter view of a person is that by means of which Rawls effects an equilibrium between the Hobbesian and theistic conception of rights, for 'equality' is much more closely related to the Hobbesian conception of rights than 'freedom', which carries the implications of the theistic conception of rights into Rawls' theory of justice.

The basic intuitive idea is that in virtue of what we may call their moral powers, and the powers of reason, thought, and judgment connected with those powers, we say that persons are free. And in virtue of their having these powers to the requisite degree to be fully cooperating members of society, we say that persons are equal. (Rawls, 1985, p. 233)

The Hobbesian implications carried by 'equality' are a result of 'equality of one person to another' being defined as a function of each of equal persons being endowed with capacities that enable them to be cooperators one with another and of 'cooperation' being defined in terms of rationally acceptable, because mutually beneficial, interactions.

Cooperation is distinct from merely socially coordinated activity... Cooperation involves the ideal of fair terms of cooperation: these are terms that each participant may reasonably accept, provided that everyone else likewise accepts them. Fair terms of cooperation specify an idea of reciprocity or mutuality: all who are engaged in cooperation and who do their part as the rules and procedures require, are to benefit in some appropriate way as assessed by a suitable benchmark of comparison... The idea of social cooperation requires an idea of each participant's rational advantage, or good. (Ibid., p. 232)

'Freedom' and 'moral personality' are closely linked. 'Moral persons' are those persons who have what Rawls calls 'moral powers' and as we noted above one is said to have freedom because one is endowed with the moral powers.

Moral persons are distinguished by two features [the two moral powers]: first they are capable of having (and are assumed to have) a conception of their good (as expressed by a rational plan of life); and second they are capable of having (and are assumed to acquire) a sense of justice, a normally effective desire to apply and to act upon the principles of justice, at least to a certain minimum degree. (Rawls, 1978, p. 505)

Of course, in so far as a sense of justice implies a desire to engage in fair, mutually advantageous interactions, the concept of freedom, since a function of a sense of justice, embodies the Hobbesian conception of rights, but Rawls makes it clear that the concept of 'freedom' is an

even more complex notion that carries into the theory the theistic conception of rights in his "positive account of the political conception of the person". (Rawls, 1985, p. 240)

In his positive account of the political conception of the person Rawls states that "citizens view themselves as free in three respects". The first and third respects in which they are free is compatible with a Hobbesian conception of rights:

First, citizens are free in that they conceive of themselves and of one another as having the moral power to have a conception of the good. (Ibid.)

The third respect in which citizens are regarded as free is that they are regarded as capable of taking responsibility for their ends and this affects how their various claims are assessed. Very roughly, the idea is that, given just background institutions and given for each person a fair index of primary goods...citizens are thought to be capable of adjusting their aims and aspirations in the light of what they can reasonably expect to provide for. (Ibid., p. 243)

It is the second respect in which citizens are said to be free that effects the practical unification of Hobbesian and Kantian/theistic conceptions of rights:

The second respect in which citizens view themselves as free is that they regard themselves as self-originating sources of valid claims. They think their claims have weight apart from being derived from duties or obligations specified by the political conception of justice, for example, from duties and obligations owed to society. Claims that citizens regard as founded on duties and obligations based on their conception of the good and the moral doctrine they affirm in their own life are also, for our purposes here, to be counted as self-originating. Doing this is reasonable in a political conception of justice for a constitutional democracy; for provided the conceptions of the good and the moral doctrines citizens affirm are compatible with the pub-

lic conception of justice, these duties and obligations are self-originating from the political point of view. (Ibid., p. 242)

It is in this passage that Rawls attempts the reconciliation of the Hobbesian to the Kantian/theist for this conception of freedom as a self-validating source of claims can be given a Kantian/theistic interpretation as well as a Hobbesian interpretation. One gives it a Kantian/theistic interpretation in treating it as if this sense of freedom is equivalent to the Kantian notion of 'autonomous willing as the ground of inalienable rights'. One gives it a Hobbesian interpretation if one thinks of it as meaning, given the circumstances of mutually advantageous interactions, every person must be treated as if they bring to the bargaining table rights that they validate just in virtue of being a human being. If citizens are equal in Rawls' sense, or even if it just makes good practical sense to act as if they were, then every citizen holding the Hobbesian view of rights will come to the same practical conclusions about the validity of every other citizen's rights as a holder of the theistic conception of rights comes to. Voila overlapping consensus; voila reflective equilibrium in a modern constitutional democracy.

Although Rawls has been more or less successful in showing how a practical agreement that 'basic rights' are valid can be forged in the circumstances of a modern constitutional democracy between those who espouse these widely disparate views of rights, the fact that it can only be a

practical alliance given the assumption of equality (or the practical necessity on the part of Hobbesians to act as if they assumed it) is recognized by him in admitting, "But those more or less permanently deprived of moral personality may present a difficulty." (Rawls, 1978, p. 510). In so far as there is no practical necessity for a Hobbesian to act as if those lacking moral personality do have it, a Hobbesian will come to different practical conclusions in his use of the Rawlsian principle of justice than Jeffrie Murphy, for example, will come to using the same Rawlsian principle.

If we were to attempt to extend the Rawlsian principle of justice to circumstances in which the persons who interact are not co-citizens "in a more or less complete and self-sufficient scheme of cooperation" (Ibid. p. 234, my emphasis), and in which the Hobbesian and theistic views of rights might have different implications, we should have to decide which of these implications to accept and then act as if Rawls' theory were committed to one or the other of these metaphysical positions. Rather than attempting to explicate a pseudo-Rawlsian position that would be applicable in circumstances other than those to which Rawls has explicitly restricted his ⁶, I plan to articulate and extend the viewpoint of someone who is straightforwardly a Hobbesian style contractarian. Unfortunately, this places me in the position of treating as irrelevant to our task the most widely influential contemporary theorist of justice. However, I

hope to have shown that it is the limited aims Rawls set for himself that have forced me to regard him this way.

A rational contractarian account of 'due consideration'.

David Gauthier develops a rational, contractarian theory of morality, including a defense of a set of rights, in Morals By Agreement. (Gauthier, 1986) The theory which Gauthier has articulated in this book is, for a number of reasons, quite appealing as a framework from within which to evaluate occurrences of terrorism. In the first place Gauthier's theory is very rich and detailed so that it is possible to argue with a high degree of precision what the logical implications of the theory are. Secondly, he has, in his chapter entitled "Persons, Peoples and Generations" explicitly dealt with issues very closely related to those with which I am concerned. Finally we may think of Gauthier's account of morality as somewhat akin to the interpreted Hobbesian contractarianism to which I appealed in showing how a prima facie obligation claim might be invalidated and the Hobbsian framework has historically been considered to be the most sensible framework from within which to analyze relationships among states and groups of persons aspiring to statehood and occurrences of terrorism that comprise part of this kind of relationship are among the most interesting and difficult to evaluate from the moral point of view.

Recall that in interpreted Hobbesian contractarianism, the laws of nature bind not as a result of a contractual laying down of natural liberty but as a pre-condition that must be accepted as binding in foro interno by the potential contractors in order to make agreement possible. This is precisely the sense in which the items Gauthier calls rights bind in his theory:

Adherence to the [constraints provided by rights] is the equivalent of the requirement in Hobbes's first law of nature, 'That every man, ought to endeavour Peace, as farre as he has hope of obtaining it'. But without such hope, of passing from nature to society, then every man may seek, and use, all helps, and advantages of Warre'. Without the prospect of agreement and society, there would be no morality, and [rights] would have no rationale. Fortunately, the prospect of society is realized for us; our concern is then to understand the rationale of the morality that sustains it...Contractarianism offers a secular understanding of rights. But the idea of morals by agreement may mislead, if it is supposed that rights must be the product or outcome of agreement...Rights provide the starting point for, and not the outcome of, agreement. They are what each person brings to the bargaining table, not what she takes from it. (ibid., pp. 193 & 222)

We may think of the class of rights that Gauthier alludes to in the above passage as entitlements to make obligation claims that are validated merely by being a human being and a potential market player or cooperator. Thus what Gauthier calls rights are a particularly noteworthy sub-set (noteworthy in the way in which they are validated) of the set of all rights as I have defined this term. Gauthier defends this class of rights as those constraints on our natural liberty that follow from the rationality of adhering to a "Lockean proviso" (phrase coined by Nozick, hereinafter called 'the proviso') limiting this natural

liberty. I shall call these valid claims 'Human Rights', meaning by this 'those rights each person brings to interpersonal interaction'.

In Gauthier's theory, the proviso may be thought of as an interpretation of the principle of harm (the principle that one's liberty may only be restrained in order to prevent harm to another) limiting it in such a way that restraint on our part from harming another is not extended to situations where failing to harm others will result in harm to ourselves. "We interpret the Lockean proviso so that it prohibits worsening the situation of another person, except to avoid worsening one's own through interaction with that person." (Ibid., p. 205) The Human Rights which are defended by Gauthier as following from this principle are akin to the traditional rights to person and property. The right to person "affords each person exclusive right to the use of his body and...his physical and mental capacities." (ibid. p. 210) Such a right would ground all of the reasons I have discussed for the prima facie obligation not to engage in terrorism, for it rules out killing, harming, using, coercing or manipulating another person who bears this right. The right to property is the traditional right of exclusive possession but we need not be concerned with the particular details of this right at this time.

A natural extension of Gauthier's account would be to denote as a class of rights all those entitlements to make obligation claims that others should or should not affect

one in specified ways that one acquires because one is engaged (rather than merely potentially engaged) in a scheme of market and/or cooperative social relationships. For example a college diploma typically states that 'having satisfied the requirements for the degree of such and such someone is now granted that degree and all the rights that pertain to it'. An example of market practices creating social rights is that of a stock exchange creating the role of a 'floor trader' and validating certain exclusive claims to engage in trading activities on the floor of the exchange. We may call such rights which can arise only in the context of market or cooperative social relationships 'social rights' to distinguish them from Human Rights which are recognized prior to and as a pre-condition to market and cooperative relationships. Whereas the latter are taken by an individual to the bargaining table, in Gauthier's contractual theory of morality, the former (ideally) arise from a fair agreement (fairness being judged in terms of the principle of "minimax relative concession" [Ibid., passim]) struck by individuals who adhere to the constraints imposed by the former. Of course some social rights would arise from social arrangements which are conventional, in the sense of 'convention' as analyzed by David Lewis in Convention rather than arising from social arrangements which should be governed by the principle of fair bargaining. We may thus divide social rights into two sub-classes: 'conventional social rights' and 'contractual social rights'.

Roughly this distinction contrasts rights arising from practices governing situations in which each participant's interests are fully in harmony with all of the other participants' interests (conventional social rights) with rights arising from practices governing situations in which there is a conflict of interest (contractual social rights). For example my right to drive on the right on American highways is a conventional social right whereas my right to be given a clear title to a house I have purchased is a contractual social right, for we all are in harmony in preferring that everyone drive on the same side of the highway (we just need to socially determine which side it will be), whereas, if he were not under an obligation to do so, the seller of a house frequently would not prefer to give the purchaser a clear title.

Of course in any actual society the rights that are recognized may fall short of the ideal in one of three ways. Either the society may fail to recognize Human Rights, or it may validate the wrong claims as Human Rights, or the society's contractual social rights are not those which would arise from a fair bargain. (There are ways in which conventional social rights could fall short of the ideal but let's ignore these for now.) Let's refer to the actual rights that a society recognizes as 'de facto rights'. Both the term 'Human Rights' and the term 'social rights' may be used to refer either to the actual rights recognized in a given social order or to ideal rights that a given society

ought to recognize. Thus the concepts of 'ideal Human Rights' and 'ideal social rights' provide grounds for comparing an existing state of affairs in terms of the de facto rights recognized against the standard of justice in-so-far as the standard of justice depends upon Human Rights and social rights.

Gauthier, like Hobbes, grounds his rights in the possibility of mutual benefit so that if circumstances are such that mutually beneficial interactions are not possible then rights do not arise, that is to say any obligation claims based on them would, in such circumstances, be invalid.

We must however recognize that these rights are not inherent in human nature. In defining persons for market competition and for co-operation, they assert the moral priority of the individual to society and its institutions. But they do not afford each individual an inherent moral status in relation to her fellows. In a pure state of nature, in which persons interact non-co-operatively and with no prospect of co-operation, they have no place...The moral claims that each of us makes on others, and that are expressed in our rights, depend, neither on our affections for each other, nor on our rational or purposive capacities, as if these commanded inherent respect, but on our actual or potential partnership in activities that bring mutual benefit. (Gauthier, 1986, p. 222)

Assuming that the public political culture is of two minds, over the issue of whether or not rights can be invalidated (as we have seen Rawls' theory of justice seems to indicate), I propose to spell out the implications of one theoretical view that they can be. I will indicate how one determines what consideration is due to the target and audience population of an occurrence of terrorism from within a rational contractarian theory of rights based upon

Gauthier's moral theory. I propose to put forward these views in much the same spirit in which Rawls put forward his views concerning civil disobedience:

Before I take up these matters, a word of caution. We should not expect too much of a theory of civil disobedience... Precise principles that straightway decide actual cases are clearly out of the question. Instead, a useful theory defines a perspective within which the problem of civil disobedience can be approached; it identifies the relevant considerations and helps us to assign them their correct weight in the more important instances. If a theory about these matters appears to us, on reflection, to have cleared our vision and to have made our considered judgments more coherent, then it has been worthwhile. (Rawls, 1978, p. 364)

Rights and Due Consideration

I have divided rights into two primary kinds: Human Rights and social rights. Each of these primary kinds is then divided into two primary divisions: the former into rights to person and rights to property and the latter into conventional rights and contractual rights. I will now specify, in a general way, the character of the ideal rights of each of these kinds of rights that I appeal to in using the fifth criterion for evaluating an occurrence of terrorism, that is the one which states that 'due consideration must be given to the moral standing of the target and audience population...'. In doing this I will indicate how disparities between ideal rights and de facto rights must be taken into consideration when applying this criterion, for to intelligently evaluate an occurrence of terrorism one must have one foot firmly planted in the actual and another firmly planted in the ideal.

Human Rights

The Human Rights that I adopt in applying the fifth criterion for the evaluation of terrorism are nearly identical to the rights David Gauthier defends as following from the Lockean proviso which he specifies and defends in Morals By Agreement.

We interpret the Lockean proviso so that it prohibits worsening the situation of another person, except to avoid worsening one's own through interaction with that person. Or, we may conveniently say, the proviso prohibits bettering one's situation through interaction that worsens the situation of another. This, we claim, expresses the underlying idea of not taking advantage. (Gauthier, 1986, p. 205.)

Gauthier argues that the proviso introduces constraints on each person's unlimited natural liberty or what Hobbes called the 'Right of Nature'. These constraints are correlated with what I call each person's Human Rights and are rational to adhere to in so far as it is reasonable for the person constrained by them to recognize the possessor of them as a potential partner in market or cooperative activities. Gauthier introduces the rights in a four-step process. I shall conceive of this process as both logical and hypothetical-historical, for we should think of this process as a rational reconstruction of human interactions over time. Steps one and two move the persons who adhere to the rights introduced in these steps from pure natural interaction to constrained natural interaction. I call it constrained natural interaction because the individuals who adhere to the constraints introduced at this stage view one another as merely potential partners in market and/or coop-

erative activities and have no immediate need to engage in these social practices. Steps three and four prepare the persons who adhere to the rights introduced in these steps to move from constrained natural interaction to the social activities of market and cooperative interaction. The rights introduced at this stage are still Human Rights rather than social rights because the constraints introduced, here, specify an individual's "initial factor endowment" which she brings to market and cooperative activity rather than introducing constraints on these social activities, given an already recognized initial factor endowment. Now let's specify the nature of the rights introduced in these four steps.

All of the Human Rights that Gauthier develops are derived from applications of the Lockean proviso. I shall not discuss the defense Gauthier gives for the rationality of adherence to the proviso but shall assume that it succeeds. The proviso

prohibits worsening the situation of another person, except to avoid worsening one's own through interaction with that person. Or, we may conveniently say, the proviso prohibits bettering one's situation through interaction that worsens the situation of another. This, we claim, expresses the underlying idea of not taking advantage. (Gauthier, 1986, p. 205)

In step one the Human Rights to person are introduced. "[A]pplication of the proviso [at this step] affords each person exclusive right to the use of his body and..his physical and mental capacities." (Ibid., p. 210) It is assumed that each person is a natural given consisting of a

body possessed of certain capacities including the abilities to act; to have, conceive of, reflect upon and alter a utility function; and to conceive of ways in which acts lead to states of affairs desirable when judged from the point of view of her utility function. We can think of these persons as members of a set of minimally effective functional adults who fend for themselves and take no interest in one another's interests. This beginning point gives us the base from which bettering and worsening are first measured. The utility of outcomes to me that I can expect to achieve in the absence of anyone else is my base utility. Actions of someone else that better themselves in relation to what they can expect in my absence and that afford me a lesser utility than I can expect in that person's absence are actions that better themselves by worsening my position. Gauthier argues that permitting someone else to use my body and its powers in any way he wishes will worsen my position by bettering theirs in relation to the base point and hence is ruled out by the proviso. This first step culminates in the Human Rights to exclusive use of one's body and its capacities and to a hypothetical historical stage in which a group of persons share a common environment by recognizing that there are other persons whose rights to person they must respect but that they are free to take and use anything else that they happen upon in their world.

Gauthier's next logical step is to show that taking the product of another person's labour worsens that person's

position and hence is ruled out by the proviso. The base point against which this worsening is measured is again the utility which a person can achieve in the absence of anyone else. Since in the absence of anyone else I can expect to do what I wish with the fruits of my labour, being frustrated in my intended use of them worsens my position. This introduces a right in the fruits of my labour so that at the hypothetical historical stage in which this right is recognized we have a group of persons who respect the rights to person of others and who recognize a rudimentary property right by either not taking the fruits of someone else's labour, or, if they cannot refrain from taking, by providing compensation to someone whose product has been taken by returning to the latter the equivalent in terms of his utility of what has been taken.

I believe that the third logical step Gauthier takes fails. I therefore reject the right that he introduces at this stage and supply an alternative right and defend it in a way that I believe accords well with his general approach. In this step Gauthier justifies a right that each person has that others should internalize something he calls "displaced costs" (ibid., p. 212) as a precondition to the emergence of market interaction. It is best if we let Gauthier speak for himself in presenting this right and the justification he gives for it. His tale begins in a stage two hypotheti-

cal-historical society in which the persons live as independent fisherfolk respecting the rights to person and the rudimentary property right:

But suppose that we cease to live as independent fisherfolk. Instead of consuming all of the fish you catch, you use some in trades with or involving me. My willingness to trade--my desire for fish and the terms on which I accept fish--are of course affected by the supply of fish directly available to me, and so by your polluting activity. Exchanging with me betters your situation; from your point of view interaction with me is profitable. But it may not better my situation, taking as base point your absence. Although I benefit by trading with you when the alternative is not trading, yet I may do less well than I would were I alone, fishing in an unpolluted stream. Taking all of the ways in which we interrelate into account, you better your situation through interaction that worsens mine. And so your use of the river for waste disposal, because of its effect on the terms of trade between us, violates the proviso.

Suppose however that taking our interaction as a whole, each of us improves his situation. Our exchanges would then seem to compensate me--fully--for the pollution you cause. Does this free you from the charge of violating the proviso? No; the absence of global worsening does not show that no part of our interaction violates the proviso. You dispose of your wastes in a way that kills the fish in my part of the river. You thereby impose a cost on me that betters the terms of trade for you and correspondingly worsens them for me. The cost you impose on me is now necessary to some part of the benefit you receive, and so it is a displaced cost. You benefit from polluting my water; you better your situation through interaction that worsens mine. (ibid., p. 212)

By 'cost', here, Gauthier must have in mind what is known in economics as a negative externality or an external inefficiency. Gauthier provides us with the definition of this notion:

An externality arises whenever an act of production or exchange or consumption affects the utility of some person who is not party, or who is unwillingly party, to it. Such an effect may of course be either beneficial or harmful; if beneficial we speak of a

positive externality or external efficiency, if harmful we speak of a negative externality or external inefficiency. (ibid., p. 87)

Most often externalities are discussed in connection with imperfections in the perfect market that arise from the existence of either public goods or unowned goods such as the air we breathe. But if what Gauthier means by a cost is 'a disutility imposed on one by the activities of someone else to which you are not a party', why should I have to compensate someone for killing fish by my polluting activities if I do not have to compensate them for taking an equivalent number of fish out of the river they intend to fish in by my fishing activities and yet clearly in the above passage Gauthier identifies my polluting activities as imposing costs on others that must be internalized but he ignores the equivalent costs imposed on others by my fishing. Surely Gauthier is not unaware of the fact that both my fishing activities and my polluting activities to the extent that they deny you equivalent numbers of fish available to be caught impose equivalent costs on you and yet he clearly ignores the former while highlighting the latter in this excerpt from the above passage:

Instead of consuming all of the fish you catch (my emphasis), you use some in trades with or involving me. My willingness to trade--my desire for fish and the terms on which I accept fish--are of course affected by the supply of fish directly available to me, and so by your polluting activity (my emphasis)... And so your use of the river for waste disposal, because of its effect on the terms of trade between us, violates the proviso.

From the point of view of the fish purchaser both of

the above activities (to which he is not party) negatively affect his utility and so are a cost, yet, in the above passage, Gauthier only finds it necessary to discuss the costs entailed by polluting activities and not those entailed by fishing activities. Recall that Gauthier has been using the hypothetical utility one can achieve in the absence of others as his base utility when judging violations of the proviso in his derivation of the rights of the first two stages. And he has not indicated that he has abandoned this base point, thus he has provided no ground for distinguishing the costs imposed on you by my fishing activities from those imposed on you by my polluting activities, both presumably worsen your position in comparison with my absence. Thus we can ask Gauthier, 'Why should one cost have to be internalized and not another for both equally violate the proviso taking as base point the utility you can achieve in my absence and you have never indicated that you have abandoned this basepoint?'.

Gauthier's apparent response to this objection is to claim that this right to have costs internalized is a precondition "necessary to the emergence of the market" (ibid., p. 211) and only regulates certain costs that can be identified as market related in some favored sense. But as we shall see Gauthier has failed to provide any meaning to this favored sense that can pick out just the costs he seems to have in mind and of which pollution serves as his paradigmatic example.

Gauthier seems to think that internalizing the costs of pollution is in some sense "necessary to the emergence of the market". But in what sense is it necessary to internalize costs of this nature (assuming for the moment we can identify the nature of this class of costs) in order for the market to emerge? Does he mean logically necessary or causally necessary? Quite obviously we know from history that internalizing the costs of polluting activities is in no way causally necessary to the emergence of the market; we have markets and we have pollution. If he means logically necessary, surely he owes us an explanation of what this claim comes to, yet he provides us with none. Yet he appeals again to the concept of necessity in his definition of 'displaced cost' in the following quote, "The cost you impose on me is now necessary to some part of the benefit you receive, and so it is a displaced cost". (ibid., p. 212)

Let us rephrase the above so as to include Gauthier's implicit restriction of the right to market interaction in order to provide his definition of 'displaced cost'.

Gauthier def.

displaced cost= A negative external-
ity which some person A imposes on some person B which
is necessary to some benefit b which A derives through
market interaction with B.

The right Gauthier seeks to introduce at this stage then is 'the right to have displaced costs internalized'.

Now again we must ask, 'What does Gauthier mean by 'necessary'? If causal necessity is meant, Gauthier has provided us with a distinction which fails to identify

polluting activities from fishing activities, for in the above passage it is maintained that I am both polluting and fishing and that I derive benefit by selling fish to you at a greater price than I could otherwise extract were it not for the fact that by polluting I kill fish you otherwise might have caught for yourself. But both my pollution and my fishing activities are equally causes of your particular state of demand for my fish, assuming, as Gauthier does, that we both fish from the same river.

Let us assume that Gauthier means logical necessity, then somehow my polluting activities must be conceptually tied to the benefit I derive from selling you fish in a way that my fishing activities are not. But then Gauthier should have used as an example my selling you manufactured goods rather than fish, for the pollution that comes from my manufacturing seems conceptually tied to my selling you goods I manufacture in a way that my fishing does not. But then, equally on logical necessity grounds, since my fishing activities are conceptually tied to my selling fish I've caught, then I would have to compensate anyone who suffers a cost from my fishing activities that I intend to sell my fish to. Surely this is an absurd result and not one Gauthier would embrace, as it has been his intention to single out the costs of my polluting activities from the costs of my fishing activities and to demand that the former must be compensated for while leaving the latter uncompensated for.

Let us consider three possible persons who might encounter one another at this third stage, the inventor of cultivation, the inventor of manufacturing, and the inventor of sport. Let us suppose that all three of them in their activities adhere to the constraints introduced in the first two stages of the derivation of rights.

Let us suppose that the first gathers berries, does some cultivating and some fishing to support himself. In doing so he reduces the supply of berries and fish that the other two might take in his absence thereby imposing a cost on the others.

Let us suppose that the manufacturer also fishes and gathers berries but rather than cultivating she manufactures products for her own use such as moccasins and other articles of clothing, whereas the other two remain naked.

Let us suppose that the sportsman also engages in berry gathering and fishing but that rather than cultivating or manufacturing he devotes much of his time to pulling fish out of the river that he doesn't intend to eat; rather he enjoys watching these fish flop around on the bank of the stream while he attempts to hit them with a stick, admittedly a rather crude form of sport.

The cultivator and the manufacturer, one supposes, would quickly come to think of one another as potential partners in market activities and would easily be willing to accept the costs imposed by the presence and the activities of each other because they would each stand to gain by

trading with one another, say cultivated goods for manufactured goods. However the sportsman poses a problem for them. Given his current preference pattern and the activities in which he engages, he imposes costs on each of the manufacturer and the cultivator with there seeming to be no prospect of mutually beneficial interactions between him and either the manufacturer or the cultivator. For assume that the manufacturer should invent and produce fishing nets, neither he nor the cultivator could have reason to trade this item with the sportsman, given his current preferences, for were they to do so the sportsman would presumably acquire and use so many fish in his sport as to impose severe costs on the other two. Given the preference patterns of our three individuals, the manufacturer and the cultivator find themselves in validating circumstances with respect to each other and would have reason to regard one another as bearers of the rights introduced at the first two stages. However, given these preference patterns the sportsman finds himself in invalidating circumstances with respect to both the cultivator and the manufacturer and bearing no rights with respect to them. Given the sportsman's current preferences, neither the manufacturer nor the cultivator can have adequate reason to accept the costs entailed by the sportsman's presence, although they may have on the assumption that he may come to prefer a different kind of sport which does not impose costs on them and which provides a basis for benefit to the manufacturer and the cultivator for they may

wish to engage in it with him or watch him engage in it. Let us call our sportsman with reconsidered preferences an innocuous sportsman.

Now let us consider the additional effects wrought on the cultivator's utility by the manufacturer's manufacturing activities. Suppose that rather than there being just the three existing individuals there are many individuals who are cultivators and innocuous sportsmen. The cultivators and sportsmen may want to get clothing, moccasins, fishing nets and so on from the manufacturer in trades with her. When these individuals begin to engage in trading activities the manufacturer presumably will begin to create more and more pollution and if she continues to dump all of her wastes into the river and begins to kill more fish than she did when she manufactured for herself only, is this a cost? If so who is it imposed upon? Gauthier supposes that polluting activities impose costs even on the person who is party to the trading activities that gave rise to the increased manufacturing that results in the additional pollution. But this cannot be so, for a cost, a negative externality, is by definition borne by someone not party to the activities that result in the effect and by trading with her for the goods she manufactures I encourage the increased manufacturing that results in the increased pollution.

Let us suppose that the existing technology is such that were the manufacturer to install pollution control equipment it would be so expensive that the price charged

for the manufactured goods would exceed the price the buyers are willing to pay, but that the buyers are currently willing to pay the price charged including the effect upon them of the pollution. In this case we can say that the buyers are fully party to the activities causing the pollution and thus the pollution does not impose a cost on them.

It is those not interested in buying the manufactured goods who have a cost imposed upon them. Suppose that several innocuous sportsmen choose to engage in canoe races on the river being polluted by the manufacturer and the pollution causes them to contract some disease. If these sportsmen are not responsible for the increased demand that leads to the increase in manufacturing pollution dumped into the river they use for their races, then we can say that a cost has been imposed upon them.

Supposing that there are other mutually beneficial interactions in which the sportsmen and the manufacturer engage, or may potentially engage, the rights introduced in the first two stages are validated with respect to each other. Perhaps the only mutual benefit these two can derive from cooperation is to enjoy a cooperative state of peace. But since they find themselves in a conflict of interest over the use of the river, this conflict must be rationally resolved in order to maintain the peace. If so, one supposes that the way to resolve the conflict of interest that results from the existence of these costs is the same way any conflict of interest is solved in rational contrac-

tarianism, that is through compromise in accordance with minimax relative concession. We cannot resolve the conflict by saying that each must respect the right of others to have all costs internalized, for such a right is impossible; given scarcity the mere presence of a person who consumes goods imposes at the least opportunity costs on others and if there was no scarcity there would be no need for rights. But the point of the rights that Gauthier is introducing at all four of these stages is to identify the initial bargaining position used in finding the solution that minimax relative concession directs. And this initial bargaining position, it must be borne in mind, is a particular level of utility from which each person advances her claim to the surplus utility that results from cooperative activities. So what we must introduce at this stage is not a self-contradictory right to have all costs internalized nor a right to have displaced costs (whatever they are) internalized but rather some kind of minimal welfare right that is a function of the ability of hypothetical historical persons to provide for themselves by their activities constrained only by the rights introduced in the first two stages. If polluting activities violate a fundamental right of persons there must be some other justification for it, because to claim that it is a displaced simply won't single it out without also singling out a lot of other costs we simply can't have a right to have internalized.

It is at this third stage where we must clearly recognize the hypothetical historical nature of the derivation of rights. We must think of the derivation of rights as proceeding from a rational reconstruction of an historical process. If we are to give any determinate content to the welfare right to be introduced at this stage we must introduce certain empirical assumptions. We have to recognize that the hypothetical historical justification must proceed at this point from the assumption of the existence of some finite, closed set of individuals coexisting whose utility functions are such that they can engage in mutually beneficial interactions but who at present engage in no market activities at all and their activities can be construed as cooperative only to the extent that they adhere to the constraints introduced in the first two stages. In effect we must conceive of them as a set of individuals who mind their own business and toil alone.

The possibility that they can engaged in market and cooperative interactions governed by social rights that result in the benefits to each that Hobbes enumerates validates the rights that Gauthier has defined in the first two stages. Since individuals encounter one another at this stage as individuals who fend for themselves by engaging in activities constrained only by the rights introduced at the first two stages we must conceive of the right arising at this stage as being a function of an historical period during which the set of individuals could have existed by

fending for themselves. Clearly this is not our historical period. Only a very small number of the members of the set of individuals living now could possibly continue to exist were we to eliminate all of the market practices and practices governed by social rights (not necessarily ideal ones) that we currently engage in. Yet presumably there was such an historical stage when some existing set of (at least adult) individuals could have existed fending for themselves. If this is so, then it must be emphasized that each of these persons by her own activity was able to assure herself a certain base utility.

This base utility would have been enjoyed as a result of acts performed based on decisions made using Bayesian decision theory taking the circumstances of each person to include the presence and activities constrained by the rights of the first two stages of the other persons. Thus each person derives a base utility from whatever she can get for herself through any non-market and non-cooperative activity she chooses to engage in so long as she respects the rights introduced in the first two stages. It is this utility level that forms the base utility that is used to determine the right which Gauthier introduces in stage four (as we will see presently) and all of the rights introduced in the completed four step derivation of Human Rights comprise the base utility of a person which is used in minimax relative concession bargaining to determine contractual rights.

If we are to give any determinate content to the minimum welfare right we must make a number of empirical assumptions. These are of two primary kinds. We must make assumptions about what the considered preferences of persons generally are and we must make assumptions about the extent to which at some early hypothetical historical stage persons could have satisfied these preferences.

It seems reasonable to assume that little or no argument is necessary to establish that certain preferences will be invariant for all human beings in a normal state of health. I assume that human beings in a normal state of health will want to provide for the satisfaction of their desires for nutrition and shelter from the natural elements. I further assume that there was an early hypothetical historical stage at which a set of individuals could have existed who interacted by adhering merely to the constraints imposed by the rights introduced at the first two stages and that such individuals could have provided for the satisfaction of their desires that result from their needs for nutrition and shelter from the natural elements. I do not intend to provide empirical data to support this further assumption, but data concerning the abilities of other primates to provide for their own needs would, it seems reasonable, be confirmatory evidence for this assumption. Further support might be sought in ethnological studies. If these assumptions be accepted, then we must accept that included in the minimum welfare right of each individual is satisfac-

tion of her needs for food and shelter from the elements, for we have assumed both that all healthy individuals will have a very strong preference to fulfill these needs and that they will be able to satisfy these preferences by their 'minding their own business activities'. If individuals at this stage were to choose to engage in cooperative interactions that make it the case that one could no longer expect to satisfy one's needs for food and shelter by 'minding one's own business activities', then it must be assumed that they do so because they can expect to generate a cooperative surplus of preference satisfaction. But since the division of the cooperative surplus must begin from the initial bargaining position, including the minimum welfare right, it must be assumed that their rational interactions must guarantee each individual their minimal welfare right plus a fair share of the cooperative surplus.

But I emphasize that there are ways in which persons' interactions can fail to be fully rational that will invalidate their minimal welfare right. Quite clearly procreative activities are a form of interaction that can impose costs on others not party to the procreative activities. If we assume that there is a limitation to the number of persons who can be supported at the minimum welfare level, which is a function of the food that can be socially produced, procreative activities that result in a surplus population fail to be fully rational and would invalidate the minimal welfare right to adequate food.

Besides rights to adequate food and shelter one other preference seems a good candidate to be included in the minimum welfare right. It seems reasonable to assume that an individual's fully considered preference would be to have an environment (nearly) free from pollution, for once an individual realizes the extent to which the satisfaction of his desires for adequate nutrition and health are dependent upon a clean environment, it is reasonable to assume that he will not want his environment spoiled by others no matter how much he might wish to be free to spoil theirs.

At the hypothetical historical stage at which the minimal welfare right is established, almost undoubtedly, individuals could have assured themselves a nearly pollution free environment. Clearly the population would have been so small at this stage as to impose nearly insignificant pollution costs on each person. Since we assume that an individual's fully considered preference would be to encounter an environment that remains nearly pollution free we have established the right to a clean environment. We have therefore provided the justification Gauthier lacked for the internalization of the costs of pollution. All those who share in the interactions that result in pollution shall have to pay for the costs of the pollution. In essence this means that those who wish to buy manufactured goods, the manufacture of which creates wastes that must be disposed of shall have to pay the price of disposing of the wastes in a way that does not impose costs on those who do not wish to

purchase these goods. In this way we separate the costs imposed by polluting activities from the costs imposed by fishing activities and forbid the imposition of the former, because they violate the minimum welfare right, but require that the latter be fairly shared by regulating them in accordance with minimax relative concession. We can think of fishing licenses and catch limits as requirements imposed by the social rights deriving from minimax relative concession, whereas the costs of pollution must be internalized because imposing these costs violates the minimum welfare right introduced in this revision of the third stage of the introduction of the Human Rights of rational contractarianism.

I conclude that the third logical step of the derivation of rights results not in a right to have displaced costs internalized but in a minimum welfare right which is a function of the utility that each person can assure herself at a hypothetical historical stage during which a small number of adult human beings engage in 'minding their own business activities', which are, by definition self-sufficiency activities constrained only by the rights introduced at the first two stages.

The fourth logical step affords a full right to exclusive possession and to the fruits of exchange. Gauthier justifies the rights which are introduced at this step by making a hypothetical historical judgement. Further rules governing the transfer of the right to exclusive possession

are made based on judgments about the effects of following alternative rules through a series of hypothetical historical transfers based on these alternative rules. The fact that he does this confirms that he has, albeit unconsciously, moved from using the utility one person can provide for himself in the absence or others, which is used in the first two steps, to the utility one person can provide for himself in the presence of others 'minding their own business'. For at this step Gauthier introduces a hypothetical historical stage and the utility each person can derive at that stage as the benchmark against which bettering or worsening of another's position is to be judged which, in effect, is the hypothetical historical stage in which persons engage in 'minding their own business activities' that I have introduced at step three in justifying a minimum welfare right. Gauthier introduces this stage in the following words:

Suppose that several persons inhabit an island. The land and its resources comprise in effect a commons available to all. But use is individual; each person provides primarily for her own needs, and interaction is non-co-operative. To make our account more realistic we should think not of individual persons but of families. The idea of a family is of a group the members of which take an interest one in another; hence internal interaction within the family is not treated directly in our analysis. We suppose then that each family provides for its own needs, interacting non-co-operatively with other families.

Now by 'non-co-operatively', Gauthier can not mean that these individuals interact as straight-forward utility maximizers with respect to one another for then the utility they could provide for themselves at this stage would be a function of the advantage taking activities of themselves and of

others, and Gauthier has explicitly claimed that the initial position must be free of all unfair advantages taken. Rather what he must mean is that they do not engage in market interaction or interactions guided by mini-max relative concession. So in effect Gauthier has assumed that families will encounter one another in this situation with a utility level that they can assure themselves by means of what I have called their 'minding their own business activities'. It is this utility level which must be used to judge bettering or worsening their positions in order to introduce the property right at stage four. Gauthier, in effect, has assumed the welfare level that I have justified at stage three as the base point from which bettering or worsening another's position must be judged when introducing the private property right even though he does not recognize this, as is evident from the following passage:

For, it will be urged, the proviso says nothing about equalizing. Or, it will be urged, the proviso says nothing about meeting needs. The rich man may feast on caviar and champagne, while the poor woman starves at his gate. And she may not even take the crumbs from his table, if that would deprive him of his pleasure in feeding them to his birds.

Distressing as we may find this situation, we should not be misled by it. We think of rich and poor within a social context, and we think that his wealth and her poverty are in some way related. If so, then in examining how the situation came about, we may well find a violation, if not of the proviso, then of the principle of minimax relative concession.

We may actually, in examining such situations, not merely find violations of minimax relative concession but also, as I have shown at stage three, violations of the proviso.

Gauthier argues that in so far as appropriation of

private property is done in a way that leaves everyone at least as well off as they were prior to this hypothetical historical appropriation, then the appropriation is vindicated. But one cannot suppose that the utility benchmark that is used to judge bettering and worsening is that achieved by each person in the absence of others. It must be assumed at this point that persons bearing minimum welfare rights choose to interact in ways that will lead to a cooperative surplus that will be shared in accordance with minimax relative concession or which will be generated and shared through market interactions. What Gauthier seeks to justify at this point is a right to appropriate an exclusive control of property. Since such an appropriation may be conceived of as imposing opportunity costs on others one might suppose that private property appropriation ought to be regulated by minimax relative concession. Since minimax relative concession yields equal shares of the cooperative surplus to the extent that the initial bargaining positions are equal one might suppose that a rational contractarian property right would yield roughly equal property shares to all. But Gauthier seeks to justify a right to appropriate property in unequal shares.

The way he does this, as indicated above, is by making a hypothetical historical judgement about whether allowing this right will better or worsen the position of the persons existing at this stage judged in terms of their utility before this stage, which, as I have argued, must be that of

stage three interactions. Gauthier argues that it must not be supposed that appropriation takes place in a way that permits individuals to live exactly at the same level of well-being engaging in exactly the same activities in which they engaged prior to the appropriation, for appropriation can alter opportunities as well as current prospects. Exclusive rights of possession are only vindicated given that they are claimed such that:

They transform a system in which each labours on a commons to meet her own needs into a system in which each labours on her own property and everyone's needs are met through market exchange. Individual self-sufficiency gives way to role specialization. The division of labour opens up new ways of life, with opportunities and satisfactions previously unimagined. Thus the mutually beneficial nature of exclusive rights of possession provides a sufficient basis for their emergence from the condition of common use... (ibid. p. 217)

In effect, Gauthier's argument, is that allowing individuals to seize personally and unequally advantageous opportunities, can lead to greater expansion in the benefits and opportunities available to all than would requiring that each person be granted equal appropriations of private property. However, if this be true, and the right to unequal property appropriations be thus vindicated, nevertheless not all unequal property appropriations are thus vindicated, for some particular property appropriation may lead to circumstances that falsify the assumption that all are provided greater benefits and/or opportunities than they had before. For example, even if an appropriation of property may leave everyone free to live as well as they did previously pur-

suing the activities they formerly pursued, yet an appropriation may curtail the horizon of opportunities to pursue new activities and new satisfactions. For this reason Gauthier argues that an exclusive right to property granted with a view to cultivating a private plot may not extend to an exclusive right to the mineral resources found on that property. His reasoning is that an exclusive right to cultivate a property may provide an expanding horizon of opportunities to those excluded from that land by allowing them to engage in the new activities of exchanging with one another and with the landowner goods that they might produce, whereas extending the exclusive right to cultivate the land to an exclusive right to the mineral resources found beneath the land may lead to a contraction rather than an expansion of opportunities by resulting in monopolistic control of what might come to be the only supply of energy readily available. Monopolistic or oligopolic appropriations of any kind are to be prohibited because they lead to the worsening of the position of others. Transfers of the exclusive right of possession through market exchange or gift are freely permitted with the exception that such exchanges are not to be permitted to result in monopolistic or oligopolic control for the same reason that these types of appropriation are ruled out.

In summary, the nature of the Human Rights I shall appeal to, following and adapting Gauthier, are seen as emerging in a four step hypothetical historical and logical

process of constraining pure natural interaction and are: an exclusive right to the use of one's body and its physical and mental capacities (step 1), a right to be given full compensation, if the fruits of one's labour are seized while one is engaged in a scheme of constrained natural interaction (step 2), a minimum welfare right which is a function of the utility hypothetical-historical persons could have assured themselves in their activities constrained only by the rights introduced in steps one and two (step 3), and an exclusive right to property requiring market compensation if one's property is seized while one is engaged in a scheme of market and/or cooperative activities.

Social Rights

All social rights arise in situations of interdependent activity, that is situations in which the possible outcomes for each person of his possible actions are a function of the actions of a set of two or more persons. In such situations, given that there are several such possible outcomes and that the actors have an interest in coordinating their actions so as to bring about some particular outcome, there is a need for a social coordination procedure. I divide social rights into conventional rights and contractual rights based upon how the valuations each of the actors makes of the outcomes are related to one another. If the valuations each of the actors make are such that there is a coincidence of interest among the actors, then the outcome that the social coordination procedure specifies as the

outcome to be brought about gives rise to conventional rights (each actor is entitled to make an obligation claim that each other actor should act so as to bring about the specified outcome). If the valuations each of the actors make are such that there is a conflict of interest among the actors, then the outcome that the social coordination procedure specifies as the outcome to be brought about gives rise to contractual rights.

The following example from David Lewis's Convention will serve to illustrate a situation in which the need to specify conventional rights arises:

Suppose several of us are driving the same winding two-lane roads. It matters little to anyone whether he drives in the left or the right lane, provided the others do likewise. But if some drive in the left lane and some in the right, everyone is in danger of collision. So each must choose whether to drive in the left lane or in the right, according to his expectations about the others: to drive in the left lane if most or all of the others do, to drive in the right lane if most or all of the others do... (Lewis, p.6)

An example from Gauthier's Morals By Agreement will serve to illustrate a situation in which the need to specify contractual rights arises: "Ernie and Bert want to meet. Ernie would prefer that they meet at the library, Bert at the cinema. Each is indifferent as to where he is should they fail to meet." (Gauthier, 1986, p. 119)

Whenever a group of people settle upon a particular outcome among possible outcomes in a situation of coincidence of interest as the one they have good reason to expect one another to act so as to bring it about, conventional rights arise.⁷ The various interacting persons may all know

that of the possible outcomes exactly one is best for all of them and they may know that they all know this and expect each other to act to bring about this outcome. Although optimality of the outcome seems to be a reasonable rationality requirement for ideal conventional rights, it hardly provides a sufficient condition for a social coordination procedure (in our example from Lewis there are two optimal outcomes--we all drive on the right or we all drive on the left). Alternatively, some other feature, of some outcome may serve to single it out in the minds of the actors as a particularly salient outcome. If the actors can engage in pre-communication one with each other, then they may simply agree to arbitrarily pick from among the optimal outcomes and that each will act so as to bring about the selected outcome. Of course among very large groups such a process of agreement would be prohibitively costly. Among such large groups an authority may be appointed to pick an outcome and then inform the actors how they are to act so as to bring about the selected outcome. Another way in which conventional rights may arise is through precedent. We may all have faced a prior interdependent activity situation with coincidence of interest relevantly similar to a present situation we face. If we solved the prior problem, we may now legitimately expect everyone to act as they did in the prior situation.

The ideal social coordination procedure specifies how individuals in situations such as Bert and Ernie are in

should act. Bert wants to meet at the library, Ernie at the cinema. Contractual rights arise when the social coordination procedure specifies where Bert and Ernie are to meet. Both Bert and Ernie then have a specific right against the other, each is entitled to claim that the other ought to go to the specified meeting place. The ideal contractual rights to which one appeals in the moral theory of rational contractarianism are those which follow from using the principle of minimax relative concession as the social coordination procedure in situations of interaction with a conflict of interest over possible outcomes. Bert and Ernie should use a randomizing device that is programmed to indicate with a fifty percent probability that they both should go to the library and with a fifty percent probability that they both should go to the cinema.⁸

Failures to respect rights

Someone can fail to respect the constraints imposed by rights in six major ways.

In the first way, she knows that she confronts the person whom she affects in invalidating circumstances and actually is under no obligation to respect the constraints that would be imposed on her if the person whom she affects in a way that the proviso forbids actually bore rights with respect to her. A person who fails to respect Human Rights in the first way cannot be said to be guilty of a violation of rights (since we are considering invalidating circumstances), yet since someone who fails to respect rights in

this manner would likely be imposing costs, most likely serious costs, onto the person who is said to bear no rights with respect to her, it would be very odd to call such a person innocent, especially in light of the meaning of latin word 'innocens' (which literally translates as 'not harming'), from which innocent comes. I therefore suggest that such a person be said to be nocent. Thus:

def

Person (A) is nocent= A imposes costs on some person (B) and A and B interact in invalidating circumstances.

As an example of a nocent to nocent relationship consider our earlier example of the manufacturer, cultivator and inventor of sport. Recall that the inventor of sport had a preference for spending much of his time watching fish he had caught flop around on the bank of the river while he attempted to hit them with a stick. The cultivator and the manufacturer, on the other hand, preferred to cultivate and manufacture in addition to fishing and gathering and found a basis for mutual benefit among one another by means of trading cultivated goods for manufactured goods. We said that there was no basis for either of them to engage in the cooperative activities of trading with the sportsman because they had no need for the fish he caught and no interest in watching his sport. We assumed however that they might respect his Human Rights on the assumption that he might come to reconsider his preferences and develop a set that would afford a basis for mutual cooperation.

Let us now assume that the sportsman observes the manufacturer using a fishing net she has made and determines

to acquire one so as to enhance the enjoyment of his sport. He makes one for his own use and with it begins to pull large quantities of fish from the river and to use them in his sport. The manufacturer and the cultivator attempt to persuade him that there are other ways to amuse oneself and communicate to him that he is imposing severe costs on them because of his preferences and that because of this, unless his preferences change they will have to regard him as nocent with respect to them. He considers the new information but declines to alter his preferences. If we conclude that the sportsman, manufacturer and cultivator hold fully considered preferences, and that the sportsman imposes costs which are so severe on the manufacturer and the cultivator that they have nothing to lose in a war with the sportsman, we must conclude that the sportsman is related to both the manufacturer and the cultivator nocent to nocent.

The second way in which one can fail to respect the constraints imposed by rights is to do so knowing that one confronts the person whom one affects in terminating circumstances so that actually one is no longer under an obligation to respect the constraints that would be imposed on one if the person whom one affects in this way were still to bear the former right which is now terminated. Someone who fails to respect a restraint that would be imposed by an unterminated right, in this way, is innocent.

In the third way, one knows that the person whom one affects does bear rights but one chooses to ignore one's

to acquire one so as to enhance the enjoyment of his sport. He makes one for his own use and with it begins to pull large quantities of fish from the river and to use them in his sport. The manufacturer and the cultivator attempt to persuade him that there are other ways to amuse oneself and communicate to him that he is imposing severe costs on them because of his preferences and that because of this, unless his preferences change they will have to regard him as nocent with respect to them. He considers the new information but declines to alter his preferences. If we conclude that the sportsman, manufacturer and cultivator hold fully considered preferences, and that the sportsman imposes costs which are so severe on the manufacturer and the cultivator that they have nothing to lose in a war with the sportsman, we must conclude that the sportsman is related to both the manufacturer and the cultivator nocent to nocent.

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In the third way, one knows that the person whom one affects does bear rights but one chooses to ignore one's

obligation without justification. Such a person is both
 9
 guilty and culpable for the guilt borne.

In the fourth way, one knows that the person whom one affects does bear rights but one chooses to ignore the constraints imposed by them because one knows that the obligations imposed by these rights conflict with other obligations one is under and one knows that the conflicting obligations override those which derive from the right(s) one fails to respect. This way of ignoring the constraints imposed by rights also makes one guilty because, as was pointed out in the introduction to this chapter, an overridden obligation, in a sense, still is an obligation and typically gives rise to duties to make amends because of the responsibility one bears for the results of (justifiably) failing to satisfy the overridden obligation. But since one is justified in having failed to discharge the overridden obligation one is not culpable for this guilt. However, failures to discharge the derivative obligation that arises from the justifiable failure to discharge the original overridden obligation will give rise to new questions of guilt and culpability.

In the fifth way of failing to adhere to the constraints imposed by rights, one accepts some other account of the nature of rights than that of the correct ideal theory (assuming at this moment that it is the rational contractarian account sketched above) and, in adhering to the constraints imposed by the account of rights one ac-

cepts, one violates the constraints imposed by ideal rights. This way of failing to respect Human Rights gives rise to a mixed judgment resulting from one having one foot planted in the ideal and one foot planted in the actual. One violating rights in this way is guilty but not necessarily responsible for the result of the guilty act. The way in which we determine whether one bears responsibility for one's guilty acts of this kind is to assess the reasonableness of expecting someone to have knowledge of ideal Human Rights and it being unreasonable of someone not to respect these rights. Presumably it is not reasonable to expect someone to be the sole person respecting ideal rights in a social order in which to follow the constraints imposed by these rights would be considered bizarre or immoral or, if to do so, would cause great social disruption so as to break down an ongoing, non-ideal cooperative scheme. In such circumstances the question about responsibility would be resolved in favor of considering the violator of ideal rights not to be responsible. On the other hand, widespread efforts to inform and persuade may alter the setting so as to negate the initial perception that respecting Human Rights is either bizarre or immoral or that to do so would lead to social disruption. In such circumstances the question would be resolved in favor of considering the violator of ideal rights to be responsible for his guilt.

In the final way of failing to respect the constraints imposed by rights, one accepts some other account of the

nature of rights but, in affecting some other person, one chooses, without justification, to ignore the constraints imposed on one by the account of rights one accepts and in doing so violates the constraints imposed by Human Rights. This sixth way of failing to adhere to the constraints imposed by rights gives rise to the judgment that the violator of Human Rights is guilty and both responsible and culpable for his guilt.

There are numerous variations on these major ways of failing to respect rights, for example by replacing all uses of 'knows' with 'believes' or 'falsely believes'. But in order to make our account economical, I have restricted my attention to the six major ways.

We must now indicate in a general way what 'due consideration' is owed to a person one may wish to use as the target or audience of an occurrence of terrorism given that they are innocent, guilty but not responsible/culpable, nocent, or guilty and responsible/culpable with respect to the terrorists.

The fifth criterion (hereinafter referred to as 'the due consideration criterion') for the evaluation of an occurrence of terrorism requires that due consideration be given to the moral standing of the target and audience population in any evaluation of the nature of the obligation one owes to them. There are two separate questions that must be answered in order to give this due consideration. The first question is , 'What are the appropriate procedures

to be followed in order adequately to determine whether one person is innocent, guilty (and responsible/culpable or but not responsible/culpable) or nocent with respect to another? The second question is, 'What obligations does a person owe to another person he encounters when the latter is, with respect to the former, nocent, guilty/responsible/culpable or innocent?'

A discussion of the former of these two questions is beyond the scope of this project. Let us just note, here, that to establish an acceptable process for settling this question of, what Robert Nozick calls, "procedural justice" (Nozick) is one of the primary goods of a state, for to do so restricts the amount of interpersonal conflict to a lower level from what it otherwise would be. (If private persons were permitted individually to determine guilt, innocence or nocence and then act as they believed appropriate with respect to the guilty or etc., then conflict would likely be endemic as Hobbes has argued in Leviathan.) If a state provides institutions that systematically bias the identification of the innocent, guilty or nocent in favor of one group of persons at the expense of another, then those responsible for this bias must bear a very great degree of guilt, for, not only do they violate rights in operating the system they have set up, they frustrate a primary good of the state. If this is the case, and if it is assumed that their control of a state government makes it very unlikely that they can be brought to justice, it may be plausible to

suppose that individuals who bear such guilt have, by their guilty acts, terminated all of their rights. Thus it would seem that the due consideration criterion for the evaluation of terrorism would not place any moral block in the path of engaging in an occurrence of terrorism with these persons as the members of the target and audience population. Any moral block in the path of such a contemplated occurrence of terrorism would have to be a function of the other criteria for the evaluation of terrorism, such as the requirement that other prima facie less objectional methods ought to be tried first or until it is reasonable to assume that such efforts would be fruitless.

The second question, concerning the obligations one has with respect to the innocent, the guilty and the nocent cannot be totally separated from the answer given to the first question. For, as we have just noted, those who frustrate the primary good of the state by adulterating the process of answering the first question must bear a heavy burden of guilt/responsibility. Thus to borrow (and sexually update) the categories of 'man and citizen' from Hobbes, in order to answer the second of our two questions one must bear in mind whether two persons confront one another person to person, citizen to person, or citizen to citizen, where I say one confronts another citizen to citizen iff both persons are citizens of the same state. (We can say one confronts another citizen₁ to citizen₂ iff both persons are citizens of different states.

First let's determine one's obligations with respect to the nocent. If you confront the nocent person to person, then you, not subject to the authority of a state, confront someone who in some way imposes costs on you but you confront each other bearing no rights with respect to one another because you and she cannot, for some reason, engage in mutually beneficial interactions. In such invalidating circumstances you are free to determine for yourself the rational course of action unconstrained by rights considerations. If to make the nocent the target or audience of a campaign of terrorism is, in your best judgment, the rational course of action, then there can be no moral grounds on which to criticize this course of action.

If you confront the nocent, citizen to person, then you, subject to political authority, confront someone who imposes costs on you and with whom you cannot engage in mutually beneficial interactions. Assuming you are a citizen of a state whose system embodies near justice and also assuming that one is an ordinary citizen and not someone with special duties toward the presumed guilty or nocent such as a police officer, one ought to follow the procedures the state specifies one ought to follow with respect to such a person: presumably, in non-extreme circumstances, treating him as if he were innocent (In general, if someone is innocent with respect to you, then you must, except in overriding circumstances, adhere to the constraints provided by all of his rights. Thus to treat someone as if they were

innocent is to regard all of his Human Rights and social rights as valid and uninterminated.) and, in extreme circumstances, treating him as if one is confronting the nocent person to person (The relationship of citizen confronting a nocent citizen¹ is identical in treatment to the relationship of citizen² to nocent person. Furthermore the policy which the state should adopt toward a person who is nocent with respect to one of its citizens is the rational policy unconstrained by rights considerations, thus the fifth criterion for the evaluation of terrorism may allow a state to adopt a policy of terrorism using as a target and audience population a group of persons who are nocent with respect to the citizens of that state.) I reserve the discussion of the relationship of citizen to nocent person in circumstances in which the system of the citizen's state diverges significantly from ideal justice until the discussion of the ambiguously guilty, because the cases are, to a certain extent, parallel. Also, for simplicity, I assume (with one exception to be noted below) that there are no citizen to nocent citizen relationships.

In order to state, in a general way, the obligations you owe to someone who is guilty with respect to you whom you confront, one must state in a general way how the particular guilt a person bears affects his rights. Let us say that one right is more important than another right, if the former right is logically more fundamental than another right. In this sense Human Rights are more important than

social rights because Human Rights are logically more fundamental than social rights in that Human Rights determine the initial factor endowments which are logically prior to a determination of social rights. The Human Rights to person (the exclusive rights to the use of one's body and its capacities), on this view, are the most important rights because all other Human Rights are a logical extension of these most fundamental rights. I stipulate that the more important a right that a person violates, the more serious is the guilt that they bear and the more numerous are the acts of someone violating your rights the more guilt she bears with respect to you. Thus someone repeatedly violating the Human Rights to person would bear a large amount of very serious guilt. In general, anyone who violates a right, whether with justification, as in overriding circumstances, or without justification, acquires a new, derivative obligation from the failure to respect the violated right.

If you confront a person who is guilty with respect to you, person to person, then you are entitled to enforce the guilty person's derivative obligation to you. In general this would permit you to extract the payment of reparations for the harm done to you in the guilty person's act of violating one of your rights. It is the loss of the right to be free from these costs that the guilt entails. Of

course the fact that such private enforcements would likely result in endemic conflict is part of the justification of political society.

If you confront a person who is guilty with respect to you citizen to citizen, or citizen to person, or citizen to citizen¹ with respect to you and you are subject to the² authority of a state embodying nearly ideal justice, then (again assuming you are not under the special duties of a policeman) you must act as if the person were innocent with respect to you. Since, in the circumstances of nearly ideal justice, the state has taken over the enforcement of derivative obligations that come from the violation of rights in order to prevent endemic conflict, any occurrence of terrorism in such circumstances that is an effort at private enforcement of rights must tend to undermine the circumstances of nearly ideal justice. Thus in being required to treat the guilty citizen as if he were innocent with respect to you, you are precluded from terrorizing the guilty. In such circumstances, therefore, terrorism cannot be justifiable as it undermines justice and only the criminal punishment system can be used to enforce derivative obligations that come from the violation of rights and seek to deter others who may be disposed to violate rights.

It may be the case that a person may bear so much guilt with respect to you that the cost to them of your enforcing the derivative obligations they owe to you may exceed any possible value they can derive from future rights con-

strained interactions with you. For example you may be a member of a group of persons who are being systematically denied your Human Rights to the extent that many of your group are being tortured or killed in the practice commonly referred to euphemistically as 'disappearances'. In this case, for all practical purposes, you and this person can no longer engage in mutually beneficial interactions and the person should now be regarded as nocent with respect to you. This is the only exception to the assumption I make that, in general, there are no citizen to nocent citizen relationships. It is, however, a very important one, for in circumstances in which anyone, including a person wielding state power, has so extensively violated your rights as to take on the status of nocent with respect to you, then the citizen to nocent citizen obligations are identical to the citizen to nocent person obligations with one additional complication. If the person you face is a co-citizen who wields state power and who has become a nocent citizen from excessive guilt, and, if the nocent citizen's acts move the state away from a state of near justice (as would be the case, given that the nocent citizen wields nearly absolute political power) you will no longer be under an obligation to act toward that person as the state dictates. I reserve the discussion of what your obligations are toward such nocent citizens until I discuss circumstances of non-near ideal justice in a state.

If you are not subject to the authority of a state embodying nearly ideal justice, the situation is very much murkier. In general, one should follow the second criterion for evaluating an occurrence of terrorism in such circumstances. This criterion states: Less objectionable methods should be tried first or until it is reasonable to suppose that such efforts would be fruitless. The stringency of the constraint that this criterion places on one's actions with respect to the guilty is a function of the severity of the guilt borne and the reasonableness of expecting the guilty to know that his actions are guilty and to refrain from engaging in these activities. Very serious guilt borne because of violations of the most fundamental Human Rights to person justify ignoring the constraints imposed by the second criterion. For example, if you were to be the slave of a person who is a member of a group of persons whose beliefs about rights entail that some persons are mere chattel to be disposed of at will and who will entertain no arguments to the contrary, they would likely bear so much guilt with respect to you as to be practically nocent. On the other hand less serious guilt, where there is a possibility of convincing the guilty that they bear this guilt and have an obligation to make amends for it, ought to be dealt with through less objectionable methods than those of terrorism. Even where there is no possibility of convincing the guilty that they bear the guilt of having violated ideal rights, the rights violations may be so minor as to make

these persons, from the practical point of view, innocent. Given an ongoing cooperative scheme in which the most fundamental Human Rights to person are recognized as de facto rights and procedural justice assures that to a very great extent these rights are respected, and in which the less fundamental Human Rights to property are approximated to a relatively high degree and in which interaction, given these initial factor endowments, proceeds in a mutually beneficial way, an effort to engage in terrorism in order to bring about the END of a perfectly ideal state of justice is not justified. This is so because, in engaging in terrorism in these circumstances, one violates more fundamental rights than are being violated in this ongoing cooperative scheme. Furthermore, to advance closer to ideal justice than this may be practically impossible; using terrorism to pursue the ideal in such circumstances would be immoral utopianism. I stipulate that the defining features of this kind of ongoing cooperative scheme mark the line between the nearly ideal and the non-ideal.

Whether one encounters another, person to innocent person, citizen to innocent person, person to innocent citizen, or citizen to innocent citizen, or citizen¹ to innocent citizen², one is under an obligation to abide by the constraints on one's actions imposed by the rights of the innocent person one encounters, unless one is under a more stringent obligation with which it conflicts. We can say that the stringency of an obligation is a function of the

importance of an obligation, thus the more fundamental a right, the more important and stringent an obligation.

An occurrence of terrorism using the innocent as the target population, assuming it is fully prototypical in involving the killing the target population, would involve the violation of the most fundamental rights to person. It is, therefore, extremely dubious that this form of terrorism can have a justification. Recall that in the case of overriding modifications to prima facie obligation claims, one acquires a derivative obligation when one fails to fulfill one's obligation in the course of fulfilling a more stringent, conflicting obligation. Most plausibly this derivative obligation is one owed to the person whose right was violated because of overriding circumstances. For example, in Susan's not keeping a promised lunch date with Jane because of a more stringent obligation to her sick child, Susan acquired an obligation to Jane to make amends. However, given the view of rights I appeal to, in the case of violating a person's most fundamental right to person by killing them, it would be absurd to claim that it was all right to override one's obligation not to kill them because one will be able to pay off one's derivative obligation to them. One cannot adequately compensate a dead person for taking his life, at any rate not after his death.

So, in this scheme, what is one to say about the circumstances I discussed earlier (the Nazi Germany example found in my discussion of Jeffrie Murphy's position) in

which one directs an army that is separated, by an expanse of territory containing persons who are no part of the conflict, from another army directed by someone intending to establish a regime that grossly violates Human Rights and in which one must kill the persons in this territory in order to defeat the enemy army? In killing these persons, is one violating their most fundamental Human Rights because of an overriding obligation one has? If we answer yes, then we shall have to allow that there are circumstances in which one violates an overridden obligation to someone without, thereby, acquiring a derivative obligation to them or else we should have to allow that one can somehow adequately compensate a dead person for taking her life. Rather than having to defend either of these positions, I maintain that, strictly speaking, in such circumstances one faces, in these persons unfortunately caught in such dire straits, persons who are circumstantially nocent.

I call these persons circumstantially nocent, because, given the circumstances in which they and you encounter one another, considering their rights to be valid, as I shall show in a moment, places one in a position of losing a struggle with someone intent on violating one's most fundamental Human Rights. I call someone circumstantially nocent with respect to you, then, whenever circumstances, rather than any acts of the circumstantially nocent, have made it the case that you and they cannot engage in mutually beneficial interaction. In the case of our example, to regard

the unfortunates caught between us and the Nazi army as the bearers of valid Human Rights would impose, I am assuming, the severe cost of our own (or others we are obligated to protect) lives. For since I assume that a person's most fundamental Human Right forbids us from doing anything which would kill them and since I assume that refraining from killing them leads inevitably to our deaths, I conclude that it follows that circumstances have made it the case that we cannot engage in mutually beneficial interactions. One or the other or both of us, in these circumstances will inevitably die soon. Since someone whose presence or activities imposes costs on you (in this case their presence as rights bearers will have this result) in invalidating circumstances is, by definition, nocent, circumstances have made it the case that these persons are nocent with respect to you. Friends, relatives, and fellow countrymen of these persons may have an interest in the well being of the circumstantially nocent and you may have an obligation to the former not to adversely affect these interests. But any obligation you would have to the former not to harm the latter would derive from a social obligation you have to these persons that could be overridden by a more stringent obligation or fundamental right to protect others or your own Human Rights. Your failure to adhere to the constraints of these social rights because of these overriding reasons would give rise to a derivative obligation to make amends to the living for having killed persons near and dear to them. But it

would not be correct to claim that you have violated someone's Human Rights to person because of a more stringent obligation. In the scheme of rights I appeal to, there is no more stringent obligation and no more fundamental right that one can have than to respect someone else's or to exercise one's own Human Rights to person.

Can there be occurrences of terrorism in which one can prevent severe violations of one's rights or enforce derivative obligations one is owed as a result of prior violations of one's rights only by using circumstantially nocent persons as members of the target and audience population of a terrorist campaign? I suppose this is an empirical question. But surely we ought to suppose that such circumstances would be extremely rare and thus a terrorist must be under a heavy burden of proof if he should attempt to justify an occurrence of terrorism by claiming that he has adhered to the requirements of the due consideration criterion on the ground that the target and/or audience population are circumstantially nocent.

I have already indicated the nature of one's obligation to the ambiguously innocent in dealing with the ambiguously guilty, as these are, obviously identical. However, I conclude my discussion of the question of due consideration by re-emphasizing two especially important particular relationships involving the ambiguously innocent; that is, the relationships of person to ambiguously innocent citizen and of citizen to ambiguously innocent citizen . A citizen of a

modern territorial state manifests power over a non-citizen in virtue of merely being a citizen of a territorial state. Among the most important ways in which citizens manifest power over non-citizens is by imposing opportunity costs on non-citizens by restricting citizenship and access to the resources found in that state to only those they choose to allow to become citizens or to use the resources found in that state. Equally, willing citizens manifest power over non-willing citizen or non-citizen residents of a territory governed by the willing citizens if the non-willing express a desire to free themselves from the governmental control and the willing citizens decline to relinquish governmental control. In manifesting power over non-citizens in these ways, and others, it is plausible to suppose that the citizens may, from time to time, violate the Human Rights of non-citizens. In general, the closer a citizen can be connected with a decision to engage in the collective activities of the territorial state which violate the rights of the non-citizen or unwilling citizen and the more reasonable it is to assume that a citizen need know that these activities violate rights and the more reasonable it is to suppose that this individual can bring about a change in the collective activities violating rights, the more reasonable it is to ascribe responsibility for the guilt to this individual. And the more important is the right that is violated the more serious is the guilt borne.

The power manifested over the non-citizen (or the unwilling citizen) by the citizens of a territorial state is a frequent source of charges that the rights of the non-citizen (or unwilling citizen) are being violated and terrorist campaigns aimed at eliminating the power relationships to which the non-citizens object are quite prominent. (Basque separatist and Palestinian terrorism are but two examples.) It would be helpful in understanding what obligations the non-citizen owes to citizens if we could answer the questions, 'When does a group of individuals have a right to their own territorial state and how does this right relate to Human Rights?'. In the next section I conclude my investigation of the evaluation of terrorism by investigating these questions.

Moral Standing of States

To the Foole's contention that injustice may 'sometimes stand with that Reason, which dictateth to every man his own good', Hobbes can reply that injustice may not stand with that reason that is constituted by the law of the sovereign. Just as it is unprofitable for each man to retain his entire natural right, so it is unprofitable for each man to retain his natural reason as guide to his actions. But Hobbes does not suppose that each man internalizes the right reason of the sovereign. His egoistic psychology allows the internalization of no standard other than that of direct concern with individual preservation and contentment. And so it is only in so far as the sovereign is able to enforce the law that compliance with it is rationally binding on the individual. But this is to propose a political, not a moral, solution to the problem posed by the Foole. (Gauthier, 1986, p. 163)

Political Orders

Gauthier sometimes, as in the above passage, writes as if he believes that a political order is a second best alternative to an ideal social order in which "constrained maximizers" (ibid., p. 173) would dispense with the coercive apparatus (or at least much of it) of the typical state. In contrasting what he calls Hobbes' political solution with "our ideal...society in which the coercive enforcement [of rights] would be unnecessary" (ibid., p. 164), Gauthier appears to equate a political order with a coercive order which exacts obedience from persons who can only be motivated by considerations of self interest. It is Gauthier's enthusiasm for his solution to the problem posed by the Foole, that leads him to emphasize the coercive function of a political order in contrast with a presumed lack of it in an ideal order of "constrained maximizers".

However, as I see it, a political order is not the second best solution to the problem posed by the Foole, something which ideally rational persons would do without, rather it is the best solution to problems which are structurally more complex than the Foole's problem. Gauthier seems to recognize this when he admits that "[a]uthoritative decision-making cannot be eliminated..." (ibid.) but rather than discussing an ideal political order Gauthier focuses on answering the Foole and on doing it in a way that escapes Hobbes' insistence on the need for an absolute sovereign who can exact obedience from his subjects.

Authoritative decision making cannot be eliminated because of two separate problems that political organization solves, one of which is related to the problem of the Foole and the other of which is not. The problems that political organization solves are more complex than the problem posed by the Foole because the Foole supposes that the only problem the interactions of humans creates is the necessity to come up with a procedure by means of which a group of persons can define, promulgate and enforce rights regulating their conflicting interests. That is to say, the Foole supposes that all a society has to do is to define, promulgate and enforce contractual rights. But political organization also solves the problem of defining and promulgating conventional rights and such rights pose no compliance problem because, as soon as they are defined and promulgated, the expectation that others will conform with them makes

conformity with conventional rights, by definition, in the interest of each citizen. Assuming that ideal theory tells us, given full knowledge of individuals' preferences and other facts such as the relationship of the acts of persons and outcomes, how to define conventional and contractual rights (as well as Human Rights), the problem of political organization is to discover procedures by which humans can reliably discover the relevant facts so as to properly define, promulgate and enforce de facto rights which are nearly ideal.

Gauthier's argument in chapter VI of Morals by Agreement, "Compliance: Maximization Constrained", is that it can be rational to dispose oneself to adhere to the constraints provided by his ideal theory of morality, provided that, with a sufficiently high probability, a person can be recognized as either disposed or not disposed to respect ideal rights so that one is admitted to interactions with those who respect rights if and only if (with a high degree of probability) one also is disposed to respect rights. But this comes to the same thing as saying that one finds oneself, with a sufficiently high probability, capable of exercising those rights one has and unable to violate the rights of others. The fact that Gauthier has shown that given these circumstances it is rational to be moral hardly shows that he has provided a moral solution which is superior to any possible political solution to the problems of human interaction. For as I have characterized a political order

we can define it as 'a group of individuals utilizing a set of procedures to define, promulgate and enforce all of their de facto rights'. In order for it to be rational for a person, living among a given group of individuals with whom he interacts and who have a collective interest in defining, promulgating and enforcing rights, to be disposed to respect ideal rights, the procedures the persons in this group follow to define, promulgate and enforce rights would have to be reliable in each of these three functions. This means that the de facto rights defined would have to be nearly ideal, the method of promulgating rights would have to nearly always reach nearly everyone, and the method of enforcement (for example, excluding non-cooperators from interactions with cooperators) would have to nearly always correctly identify the dispositions of the persons in the interacting group and reliably apply the method of exclusion (prison, expulsion, the death penalty or what have you). Clearly, in order for it to be rational to be a constrained maximizer, one must be interacting with a group of individuals in a reliable political order. Thus Gauthier's moral solution to the problem of the Foole can only be contrasted with a political solution if we follow Gauthier in taking 'political order' to mean 'coercive order for persons always motivated by considerations of self-interest'. On the other hand if we take 'political order' to mean what I mean by this term, then Gauthier has not provided a moral solution as opposed to a political solution to our problems at all.

Rather he has provided arguments which men and women, concerned that their political orders ought to define a set of de facto rights which it is rationally defensible to adhere to, can use to evaluate the de facto rights they in fact have.

A political order may be more or less integrated as a function of the degree of agreement among the individuals who interact about the procedures to be used in defining, promulgating and enforcing de facto rights. I emphasize that integration is a function of agreement on procedures rather than identity of content of all of their rights. Obviously, the content of many of our rights differs, for example one person's property right differs from another's in the mundane sense in which one person owns different particular property than another, but differences in rights people have may be more fundamental than this. For example in a highly integrated pluralistic political order all the individuals in this order might agree that some of their rights are specified by appeal to the canons of the different voluntary associations such as religious groups to which they belong so that the content of one person's ecclesiastical rights may differ, perhaps profoundly from another's as when one religious group affirms a woman's right to have an abortion while another denies this right. Despite profound differences in the content of the rights the members of these different religious groups recognize, they may all be members of a well integrated political order if they agree

on the set of procedures, including reference to an individual's religious affiliation for determining her rights. In our example, if the members of the different religious groups were part of a well integrated political order they would agree on the procedure that there is a strict division between social rights and ecclesiastical rights, that there is an agreed method to determine where the division lies and that in the realm of ecclesiastical rights particular church canons specify what rights their members have to engage or not to engage in certain activities while still remaining members of that church.

In less integrated political orders various groups of individuals may disagree over the correct procedures to be used in defining, promulgating or enforcing rights. For example, there may be much conflict over whether a suggested right be considered a Human Right, a social right or an ecclesiastical right. To use a contemporary conflict as an illustration, in a less well integrated political order some persons may wish to claim that there should be no social right to abortion because a fetus should be considered to bear Human Rights and that this places an obligation on a woman bearing a fetus to sustain its life until birth while others may wish to claim that the status of the fetus is a question to be decided on religious grounds and thus a fetus is a bearer only of whatever ecclesiastical rights are granted to it by the church to which the woman who bears it chooses to belong. If the members of this society agree to disagree

through a procedural forum in which their disagreement will be settled (although perhaps not finally settled), then it would be appropriate to consider it a well integrated political order; whereas a political order in which there is continual disagreement over the content of rights and frequent disagreement over the procedures to be used to resolve this disagreement is a somewhat disintegrated political order. A group of individuals interacting with very little agreement over what procedures should be used to define, promulgate and enforce rights is an extremely disintegrated political order and whenever individuals or groups of individuals who form separate political orders interact and there is no agreement between the individuals or between the separate political orders over what procedures should be used to define, promulgate and enforce rights governing their interactions there is no political order among the individuals or no overarching political order among the separate political orders. It is likely that extremely disintegrated political orders and the absence of political order will be characterized by violence.

Now if we take a 'state' to mean = ^{def} 'a territorially bounded political order', our question 'When does a group of individuals have a right to a state?' becomes more precise. A political order may be said to be territorially bounded when a group of individuals interact within a bounded frontier recognizing that the procedures which specify all of their de facto rights operate only within that bounded

frontier and that outside the bounded frontier either different or no procedures operate and when these individuals are prepared to defend both the frontiers and the procedures from encroachment from without. The question 'When does a group of persons have a right to a state?' may now be taken to mean 'Why should anyone respect the borders or the procedures of a territorially bounded political order?' We can ask this question about either an existing or a proposed state.

The Value of a political order

The classic statement of the advantages that accrue to an individual of interacting with other persons in a political order over fending for oneself without benefit of cooperation with others is the following passage from Leviathan:

[Without a political order] there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall fear, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short. (Part I, Ch. 13)

Evidently, the contribution that a political order makes to the welfare of the individual is so great that from the point of view of a participant in it he always has some reason to respect the borders (if there are any) and procedures of the order in-so-far as to do so is conducive to the stability of life which is necessary to bring about the advantages Hobbes enumerates. Thus although the individual

will not have the best reason to respect the borders and procedures of her state unless they embody ideal justice, her efforts to move the state to alter itself in ways that more closely approximate the ideal ought to take care not to risk disintegrating the political order. Hence the presumption against the use of terrorism as a method for bringing about change within a political order (expressed in the criterion of maturity), which becomes stronger the more closely the political order approximates the ideal, regardless of the guilt borne by the members of the target and audience populations. The interesting problem for political theory is to discern what procedures will effectively ensure that ideal rights will most nearly be approximated in the definitions, promulgations and enforcements of de facto rights. But since this problem is no part of my present concern I turn to the interactions of individuals who are not co-participants in a territorially bounded political order. Such individuals may encounter one another person to citizen or citizen¹ to citizen². The question we seek to answer now becomes 'Why should non-participants in some territorially bounded political order respect the borders and procedures of that state?'

Individual Rights and the Collective Right to a State

By definition, a territorially bounded political order seeks to define all the rights that individuals interacting within its borders possess. Most importantly, a state will typically seek to define the terms of membership in the

political order. Some individuals will be welcomed, others will be shunned. Our concern is to determine, from the point of view of a non-member, what, if anything, justifies a political order in manifesting power over non-members in this way. Since this territorial control seems to resemble the right of exclusive control of private property ownership let's review the right to property which we explicated in our rational contractarian account of individual rights.

The right to property is interpreted as a Human Right that is derived from the rationality of adhering to the constraints provided by the Lockean proviso. Recall that the proviso

prohibits worsening the situation of another person, except to avoid worsening one's own through interaction with that person. Or, we may conveniently say, the proviso prohibits bettering one's situation through interaction that worsens the situation of another. This, we claim, expresses the underlying idea of not taking advantage. (Gauthier, 1986, p. 205)

The justification of any particular person's right to property was the fourth step of a method of reasoning that proceeded by logical and hypothetical historical steps. In order for an individual appropriation of property to be justified, we assumed the existence of a closed set of individuals whose presence and activities impose costs upon one another but we assumed that each would accept the costs imposed by each others' self-sufficiency activities because of the mutual benefit each can derive from working together.

We then argued that appropriation of private property is justifiable to the extent that granting an exclusive right to property can lead to further mutual benefits.

The fourth logical step affords a full right to exclusive possession and to the fruits of exchange. Gauthier justifies the rights which are introduced at this step by making a hypothetical historical judgement. Further rules governing the transfer of the right to exclusive possession are made on the basis of judgments about the effects of following alternative rules through a series of hypothetical historical transfers based on these alternative rules. Gauthier argues that in so far as appropriation of private property is done in a way that leaves everyone at least as well off as they were prior to this hypothetical historical appropriation, then the appropriation is vindicated. But it must not be supposed that appropriation takes place in a way that permits individuals to live exactly at the same level of well-being engaging in exactly the same activities in which they engaged prior to the appropriation for appropriation can alter opportunities as well as current prospects. Someone's claim to an exclusive rights of possession is vindicated only if this claim allows everyone else to reap benefit from the new circumstances allowing this claim would give rise to. These benefits are to be measured not only by making a judgment about how his present activities will satisfy his present preferences in the new circumstances but

also in terms of whether they expand or contract his horizon of opportunities to engage in new activities and to satisfy new preferences.

It may be tempting to assume that there are some natural collections of persons known as 'peoples' and that a right of a 'people' to their own state requires only a simple extension of the individual property right to a collective or corporate property right to the territory the people have claimed as a place to live, but matters are not so simple. What, for example, is the natural collection of persons to be called 'the Irish'. Are these all the people living in Ireland or all the Catholic Irish or all and only the descendants of people living in Ireland prior to 1680 or does some subset of the persons living in Ireland form a separate people such as all the Protestants living in the northern six counties? So far in our explication of rational contractarianism we have conceived of a closed set of individuals interacting over time but when we attempt to extend the analysis to a collective right to a state (and, as we shall see, when we discuss certain contractual social rights) we must conceive not of a closed set of interacting individuals but to an ever changing set of individuals who are born, who die and who interact in ways that may lead to the birth of new individuals whose status within the community must be settled in some way. That the set of interacting individuals consists of a continually changing membership and that this changing membership is, to a large

extent, a function of the activities of existing members greatly complicates the answer to the question 'When does a group of individuals have a right to their own state?'. Let's investigate how Gauthier attempts to extend rational contractarianism into this more complicated terrain.

Gauthier on the relationship between "Peoples"

In chapter IX of Morals By Agreement, "Persons, Peoples, Generations", Gauthier has explored issues closely related to those with which we must be concerned, yet he recognizes and acknowledges the difficulties of applying a theory, even his own:

We do not claim that the only way to refute our claims in this chapter is to provide a superior moral theory. For we may have misunderstood the implications of our own position. There are formidable difficulties in applying a moral theory to circumstances far more complex than those envisaged in the idealized framework employed in its construction. And so we embark on the present chapter in a spirit of exploration, distinguishing what seem justifiable inequalities from unjustifiable ones, and human advancements from retrogressions, but ready to admit that, even if our theory of morals by agreement be fully acceptable, much that we say here must be tentative and controversial. (ibid. pp. 269-70)

On Gauthier's theory, as we have seen, an initial factor endowment (one's bundle of Human Rights), ought to be granted to a person, assuming the existence of validating circumstances, if and only if the position of others who would be affected by granting you this initial factor endowment would not be worsened by this grant. The general approach one would expect Gauthier to take then, when extending his account of individual rights to the rights of

peoples would be to ask whether the peoples encounter one another in validating circumstances and, if so, what activities of theirs would be permitted by the Lockean proviso. But Gauthier does not consistently adhere to this approach. Two elements completely foreign to his general approach find their way into his arguments at this stage and their presence leads to flawed analyses. These elements are pieces of the ideology of nationalism and pieces of the ideology of progress.

By the ideology of nationalism I mean the view that there exist various assemblages of persons collectively forming a 'people' (or a 'nation') and that every people has an inherent right to their own state.¹¹ As Karl W. Deutsch points out, a 'people' has been viewed as a "community of values" from the time of St. Augustine, who defined a people as "an assemblage of reasonable beings bound together by a common agreement as to the object of their love" to post World War II authors such as "K. C. Wheare who wrote of 'that sense which people have that they are bound together and marked off from others by common sympathies...'. (quoted in Deutsch, p. 20)

By the ideology of progress I mean the view that there exists "a tendency inherent in nature or in man to pass through a regular sequence of stages of development in past, present, and future, the later stages being--with perhaps occasional retardation--superior to the earlier" and that progressive social orders justifiably supplant non-progres-

sive social orders. (from Ludwig Edelstein, The Idea of Progress in Classical Antiquity, quoted in Stanley)

The idea of progress had its origin in the seventeenth century and matured in the age of Enlightenment. Perhaps no better summaries of the idea of progress are found than in the concluding paragraphs of the Outline of the Historical View of the Progress of the Human Mind by the archetypal proponent of the modern idea of progress, the Marquis de Condorcet. In this work, Condorcet puts forth all six of the concepts that make it a new idea in the eighteenth century (though not originating with Condorcet) and an idea that characterizes the following age. (1) Progress occurs in all fields; (2) is projected into the future; (3) rejects inevitable annihilation and the pessimism that goes with it; (4) renders civilization indefinitely perfectible; (5) has a linear view of history; (6) regards the future as having certain inevitable patterns which are calculable. (Stanley, p. xix-xx.)

Typical markers of progress to which ideologues of progress have appealed include the accumulation of scientific knowledge, increases in the level of material goods that persons enjoy, longevity of life, a supposed perfecting of the civic virtues that citizens display and an increase in the population density that can be supported in a given territory. It is these markers of progress that are used to identify progressive societies in claims that more progressive societies justifiably supplant less progressive societies.

Perhaps the most obvious point at which the ideology of nationalism slips into Gauthier's discussion of the rights of peoples occurs in the following passages:

Suppose that an outsider, whom we shall call Columbus, appears on our island where land is treated as a commons. May he join the original inhabitants, using the land with them? We may suppose that his arrival worsens their situation; it creates greater population pressure on the land. However, if Columbus is entirely self-sufficient and does not profit in any way from the presence of the original inhabitants, then

he does not better his situation in relation to what he would expect were they absent. He does not violate the proviso by his use of the island, although equally, the original inhabitants do not violate the proviso in seeking to exclude him. For in excluding him they do not better their situation in relation to his absence.

However, if Columbus seeks to interact with the original inhabitants, benefiting from their presence and activities, then the situation is quite different. In merely using land, unless he profits from their prior cultivation of it, he does not benefit in any way from what they do. But if he proposes to trade with them, then the cost to them of his presence falls within the framework of interaction as a displaced cost, an externality. (Gauthier, 1986, p. 292)

As I pointed out earlier in my discussion of Gauthier's presentation of the right to have costs internalized, Gauthier has provided no well defined basis for distinguishing among all the different ways in which one imposes costs on another and that Gauthier's right to have displaced costs internalized must be rejected. At this point in the argument Gauthier has even relied on the slipperiness of this distinction in arguing that if Columbus should decide to trade (let us suppose fish that he catches) with the natives then since, as I pointed out earlier, even fishing imposes costs on those who also want to fish, by Gauthier's lights Columbus must internalize the costs of his fishing when he decides to trade with the 'natives'. However Gauthier has forgotten the fact that equally the 'natives' fishing activities impose costs on Columbus which, by his argument, ought to be internalized when they begin to trade with Columbus. Thus if, in Gauthier's above Columbus example, the 'natives' and Columbus find themselves in validating circumstances, what grounds have we for distinguishing Co-

lumbus's fishing activities from those of the natives such that Columbus imposes 'costs' on each of the natives that he would have to compensate them for from the fishing activities of the natives which equally impose costs on one another and on Columbus?

If I own a piece of property and someone else enters it and uses it without my permission for his self-sufficiency activities, then I can identify his presence as a source of costs to me that he is prohibited from imposing on me (this is after all part of what it means to have an exclusive property right), but if both of us encounter one another in a situation in which property rights have not been established then the costs each imposes on the other by each one's presence in a common territory are costs accepted as entailed by each one's recognition that they find themselves in validating circumstances and extend to one another the Human Right to person. Gauthier's insistence that Columbus must compensate the 'natives' for the 'costs' of his presence indicates that he may have unconsciously assumed that the natives possess a property right in the island which right alone can justify the claim that Columbus' presence imposes costs on the 'natives' which they must be compensated for while ignoring the costs their presence imposes on Columbus for which he need not be compensated. But how can the fact the 'natives' arrived on the island before Columbus and established a common life there justify a right to the island that they have with respect to Columbus? Before we

can justify granting a right to the island that the 'natives' have against Columbus on what ought to be Gauthier's grounds, we have to show that in appropriating the island for some intended purpose the 'natives' have not worsened Columbus' situation and this Gauthier has not even attempted to do. Gauthier has not shown how the 'natives' acquired such a right and his use of such phrases as "outsider" and "original inhabitants" indicates that the ideology of nationalism has subtly infiltrated the analysis at this point. Although Gauthier does not argue that a 'people' has an inherent right to a state he does seem to be carelessly granting some kind of inherent right to the territory to a group of persons just because they happen to have developed a common life on it. It is the assumption that a collectivity of persons known as a 'people' possesses inherent rights of some kind that is the element of nationalism that Gauthier has, it seems, allowed to slip into his analysis.

Whereas elements of the ideology of nationalism may have inadvertently found their way into Gauthier's argument, elements of the ideology of progress have quite explicitly and illicitly been made part of his analysis of the interactions of "peoples who practise different ways of life". (ibid. p. 288) These elements are presented in the following passage:

We begin by formulating four criteria for classifying one way of life as more advanced than another, as exhibiting a higher stage of human development. The first, and perhaps the least important, is density of population: other things being equal, A is a more advanced way of life than B if it enables a larger

number of persons to inhabit a given territory. The second is duration of life: other things being equal, A is a more advanced way of life than B if it enables those who practice it to enjoy, on average, a longer life span. The third is material well-being: other things being equal, A is a more advanced way of life than B if it enables those who practise it to enjoy, on average, a greater abundance, and more varied kinds, of material goods. And the fourth, and most important, is breadth of opportunity: other thing being equal, A is a more advanced way of life than B if those who practise it enjoy, on average, a choice among more diverse and varied vocational and avocational roles. These four criteria induce a partial ordering on ways of life, in terms of advancement or human development. We shall not attempt to weight the criteria in such a way as to provide more than a partial ordering. (ibid.)

Although Gauthier does not make the assumption of the ideology of progress that progressive development is somehow part of the inevitable nature of things, he none-the-less adopts quite traditional markers of progressive development. It must, however, be pointed out that any attempt to justify one way of life as supplanting another on these grounds is inconsistent with the subjective and relative theory of value that is the foundation upon which Gauthier's entire theory is built. Gauthier attempts to defend the criteria of progress by "appeal to what seem plain facts about human preferences." (ibid.) He tells us that 'not all human beings wish to reproduce, yet most do' and that '[a]mong those who [believe material well being is possible] the desire [for it] is widespread'. But majority preference cuts no ice in rational contractarianism. How clashes of interest are to be solved in this theory is not by appeal to the values of the majority but, given the possibility of mutual benefit, by means of minimax relative concession.

Gauthier does attempt to justify the fourth criterion from within the perspective of rational contractarianism. He tells us that

In VII.4.2, we saw that the fundamental choice of the ideal actor is to use her powers to fulfill her preferences to the maximum extent possible. But then the ideal actor must also choose a society that affords its members the widest choice among vocational roles, the broadest range of opportunities, as the most effective means to realize that fundamental choice. (ibid., p. 289)

But this criterion seems to work against the position he is attempting to support (that it is justifiable for an early industrial society to supplant a hunting/gathering society) because we can envision a society granting property rights to both hunters/gatherers and industrialists and thereby making room for the occupational roles of both the exclusively hunting/gathering society and the exclusively industrial society within a complex hybrid of the two simple types of society by granting exclusive property rights to individuals who choose to engage primarily in the activities appropriate to either of these types of preference patterns. Thus far from justifying an industrial society supplanting a hunting and gathering society, this criterion seems to indicate that, if a way can be found to accommodate the one society to another so as to create an overarching society with more diverse roles than either simple society this way should be adopted. Thus it is primarily the criteria inconsistent with the theory of value underlying rational contractarianism and imported from the ideology of progress

that gives Gauthier the justification for an early industrial society supplanting a hunting and gathering society.

In my judgment, Gauthier's implicit reliance on the ideology of nationalism and explicit reliance on the myth of progress have resulted in a flawed application of the theory to the problem of the relationship of "peoples". I do not intend for the above to be taken as a refutation either of the ideology of nationalism or of the myth of progress. Although, in my judgment both of these positions must be rejected, this is not the place to argue that point. Instead, I will turn to the task of explicating what I take to be a rational contractarian account of the right to a state.

A Rational Contractarian Account of the Right to a State

In my view a rethinking of some of the practical applications of Rational Contractarianism is in order. This can be accomplished most profitably, I think, if we begin with the complications to the theory that derive from the addition of new members to the class of human beings. Gauthier never indicates how a group of constrained maximizers will arrive at a population policy. And yet, as we have seen, another person's mere presence imposes costs on other persons which it is rational for them to accept only given that they are members of a set of individuals who can benefit from constrained interaction. But, since some of their interactions will, one supposes, inevitably be procreative

activities there will inevitably be new persons imposing new costs on those who already exist and, one wants to know, why those not party to these procreative activities should be willing to accept the additional costs such activities will impose upon them.

We ended our derivation of Human Rights with a closed set of individuals who recognize rights to person, a right to have all costs beyond those entailed by each one's self-sufficiency activities internalized and rights to property. We conceive of these individuals at some hypothetical historical stage engaging in self-sufficiency activities and in market and cooperative activities. We now ask, 'What kind of bargain will these individuals strike with one another concerning the addition of new members to the group?'. Since it is likely that the way in which one individual's preference satisfaction is affected by the addition of new members of the group will differ from another's, some adversely, some favorably, the addition of new members to the group is a matter in which contractual rights will regulate the conflict of interest. Of course this last statement slightly overstates the case, for the level of knowledge may be such in a group that a birth rate that is a function of procreative activities freely agreed to be engaged in by each man and woman unconstrained by the effects these activities have on others who are not party to these activities may only sustain or perhaps barely increase the population of the group allowing each member of the group no matter

when he or she is born to enjoy the same horizon of opportunities as any other. But let us assume that the level of knowledge is such that it is possible for a group of people to have a birth rate that increases the population level at a rate that adversely affects the interests of some and favorably affects the interests of others.

First let's conceive of our set of individuals interacting within what they conceive to be a naturally bounded frontier. Suppose that they live on a planet that consists of a vast ocean with one island land mass. Suppose that some of the individuals prefer to accumulate more and more material goods at the expense of leisure and outdoor self-sufficiency activities and some of the individuals prefer to engage primarily in outdoor self-sufficiency activities and leisure activities and desire only those material goods and interactions with other persons which enhance their preferred activities.

It is in the interest of the material goods lovers that the population continues to rapidly rise, for they have discovered that interactions with many people in the market place most efficiently add to their stores of material goods. They choose to be industrialists and more people mean more customers and more customers yield more profits which yield larger stores of material goods for themselves.

It is in the interest of those who prefer leisure and outdoor self-sufficiency activities and only those interactions with other persons which enhance the enjoyment of the

first two activities that the rise in population be restricted at a level far below that preferred by the industrialists. Clearly the industrialist's most preferred state of affairs on the island would be to achieve a population density that is limited only by the capacity of the island and the surrounding sea to feed the population, house the population and provide space for their manufacturing plants and hordes of material goods. Those who prefer leisure and outdoor self-sufficiency activities on the other hand must prefer a population density that affords them land on which to engage in the activities that they prefer which presumably entails very little or no contact on these lands with material goods lovers whose portable stereos, motorcycles and other toys will create noise spoiling the enjoyment of their leisure time and disrupt their self-sufficiency activities.

Although it might seem at first glance that these two types of individuals have preferences so much at odds that there is no basis upon which they can engage in mutually beneficial interactions, this need not be so. The industrialists may provide goods which enhance the preferred activities of those who prefer leisure and outdoor self-sufficiency activities and the industrialist, in turn, may wish to acquire goods that the outdoor enthusiasts can efficiently provide to them. Furthermore our island may not be neatly divided into persons of these pure types. Some individuals may have preferences for a medium quantity of

material goods and a moderate amount of leisure and outdoor self-sufficiency type activities. Some may prefer intellectual activities, wishing to study the habits and interests of various types of persons. A rational bargain among this set of individuals would set a limit to the population density allowed on the island that would afford our disparate types with the land needed for them to engage in their most preferred activities and affording each with roughly equivalent shares in the cooperative surplus. A rational bargain on our island would entail the industrialists giving up some of their potential for material goods accumulation in exchange for the nature lovers giving up some of their future solitude.

Next let's envision a more complex world than our world with a single island surrounded by a vast ocean. Let's envision a planet much like the planet Earth with both vast oceans and vast land masses. Let's envision that dispersed throughout the land masses are disparate political orders none of which presently has contact with nor is aware of the existence of the other political orders. Let us say that each political order has been established nearly in accord with the principle of justice so that the de facto Human and social rights they each have are nearly ideal. Although each society's de facto rights are nearly ideal, they need not be identical from society to society for at least three different reasons.

Taking the most simple case of conventional rights, even if two different societies face a nearly identical problem situation, they may choose different solutions. The most obvious example of this is the case of the conventional right to drive on the right side of the road in the United States of America which has as a counterpart the conventional right to drive on the left side of the road in Great Britain.

Secondly, de facto contractual rights will vary as a function of individual preferences. If we take the contractual rights that would be entailed by a political order's population control policy as an example, those holding sway in one society would differ from those holding sway in another as a function of differing preferences the members of one society may have as compared to the members of some other society.

Finally, the state of knowledge may differ from one society to another affecting the preference formation of the individuals in each society possibly resulting in variations in preference formation leading to variations in social rights. There might exist two different societies in which, given the same state of knowledge in both societies, individuals in the different societies would form roughly equivalent preferences so that given equal states of knowledge the societies would define equivalent de facto contractual rights. However, given the different states of knowledge,

the actual preferences of persons in the different societies may differ enough that the societies would define different de facto rights.

Thus we can envision a set of political orders all ideally just in that they are organized in accordance with the same general principles of justice but quite different from one another in the de facto rights defined in each because of different preferences resulting in different contractual rights or different arbitrary decisions resulting in different conventional rights.

Encounters between states

Envision that some of these political orders may be more or less tied to a particular bounded location. This may be because a political order has arisen in some location (such as an island) where the inhabitants' technology has precluded transportation beyond the natural boundaries or because the activities the individuals in some political order prefer to engage in are tied in some way to a particular location (as, one may suppose, the ancient Egyptians preferred the cycle of agricultural activities peculiar to the Nile river valley. On the other hand some of these political orders may be either nomadic or territorially expansionist. Whereas our bounded political orders are, by definition, states, neither a nomadic nor an expansionist political order constitutes a state, as I have defined it.

A number of beliefs may be held by the individuals living at this hypothetical historical stage which are in-

consistent with their actual circumstances. For example, all the people in each political order may believe that their own people are the only people there are. They may all believe that the pattern of activities in which they engage constitute the eternal and natural activities of humankind. However helpful these beliefs may be in creating social harmony within each political order, as time passes these beliefs will encounter circumstances which challenge them. As technology changes, permitting transportation over distances previously impossible or as time passes such that nomadic or expansionist peoples extend the territory over which they engage or have engaged in their activities, inevitably one political order will become aware of another political order. Such circumstances challenge long held beliefs.

Two things may happen in these circumstances. Long held false beliefs may be abandoned and new knowledge added to the store of knowledge possessed by a political order which in turn may (or may not) lead to changes in the considered preferences of the individuals in this political order. Alternatively, long held beliefs may not be abandoned and individuals encountered in the course of one's normal activities who are not members of one's own political order may be viewed as barbarians practicing unnatural and repugnant sub-human ways of life. Let's investigate the justice of encounters that proceed from these alternative reactions.

If two naturally bounded political orders encounter one

another and both abandon their false beliefs about their isolation, thereby adding to the store of knowledge in both, then it would seem reasonable to hold that the fully "considered preferences" of the members of each order which emerge from a reconsideration of their preferences in the light of the new knowledge are adequately based on a store of knowledge that it is reasonable to expect each of them to possess.¹² Assuming that the social rights in each society that emerge from this encounter with new circumstances remain different, one from another, in many details (although we assume that both are nearly ideal), there will be no total and immediate development from both political orders of an inclusive, new, highly integrated political order. In fact the fully considered preferences of the members of the different social orders might be such that there is no basis for mutual benefit to be derived from interaction between the two social orders. In this case individuals from the different political orders encounter one another in invalidating circumstances and neither group of citizens can have a right to its state against the other group of citizens. For example a political order consisting entirely of individuals with the preferences of the above discussed "industrialists" might encounter a political order consisting entirely of individuals with the preferences of the "leisure and outdoor self-sufficiency activities lovers" in circumstances in which the industrialist's technology had changed turning it into an expansionist political order.

Such disparate preferences might afford no basis for mutual cooperation, in which case individuals from these political orders would encounter one another nocent to nocent.¹³

Alternatively, the individuals would encounter one another in validating circumstances and would recognize one another as bearers of rights with respect to one another. Although differences in the de facto contractual and conventional rights they both recognize would prevent immediate (or even foreseeable) development of a new highly integrated political order, undoubtedly there would be some agreement about what procedures should be used to identify the rights an individual bears ('When in Rome...') as well as some debate and disagreement. Such an encounter, then, would likely result in well-integrated states existing within a somewhat disintegrated inclusive state.

Within a somewhat disintegrated political order of the above kind, the extent to which one well integrated political order's business is another's is a function of individual rights considerations. If we think of individual rights on the model of the Human Right to person, then we will tend to think that violations of anyone's rights is anyone's business, for violations of the Human Right to person seem relatively easy to identify and any given individual's Human Right to person is secure only in so far as the procedures used to define, promulgate and enforce them are reliable. On the other hand if we think of individual rights on the model of conventional rights, we will tend

to think that only individuals who are members of a well integrated political order can define, promulgate and enforce such rights and that only such members are entitled to judge whether an action violates such rights and what the appropriate response is to purported violations.¹⁴ The problem is more complex because a complete theory of rights cannot be reduced to either of these simple models.

When one ideally just political order encounters another ideally just political order in validating circumstances, joint procedures must be worked out to define, promulgate and enforce the rights which will regulate the interactions of the two political orders. For example, what may have been a just population control policy, a just pollution control policy, or a non-oligopolic ownership pattern when each society conceived of itself as existing in isolation may not be just when it is understood that other political orders exist and that such policies may impose costs on persons living in these other political orders that ought to be internalized or which entail other violations of the proviso. Thus ideally just political orders which encounter one another in validating circumstances do not accept the principles of 'political sovereignty' and 'territorial integrity' as absolute principles, rather they recognize that there are few activities in which the members of one political order can engage in that fail to affect the members of another political order and that, although they likely will jointly remain a disintegrated political order for some

time, they must approach one another in a spirit of cooperation and compromise. This encounter ideally would involve bargaining among the members of the different political orders to resolve conflicts of interest. Population control policies and ownership of and acquisition of scarce resources are but two of the important areas in which conflict of interest would have to be worked out and in which new contractual rights would have to be defined. Attempts to avoid engaging in bargaining over such issues by hiding behind the principles of political sovereignty and territorial integrity would be seen as screens used to hide a non-cooperative stance. But in that two political orders may encounter one another in invalidating circumstances it cannot be said that it is necessarily irrational for a group of persons to adopt a non-cooperative stance with respect to some other group of persons.

If two political orders encounter one another and the members of one or the other or both political orders fail to abandon the false beliefs that are a function of their previous isolation, it may or may not be possible to judge their interactions using the standard of justice. One may have to conclude that what is taking place is the interactions of persons not displaying the degree of rationality that it is reasonable to expect them to display and thus condemn both of them as being irrational rather than either of them as being unjust. One may be able to ascertain that, given the present preferences of the members of each socie-

ty, if only they could abandon their beliefs that the others are repugnant barbarians they could engage in mutually beneficial interactions so that one might be able to envision what a just arrangement between the two political orders would look like given their present preferences. But one may not suppose that one can tell what their considered preferences would be were they to adopt true beliefs about the other peoples. What the shape of a just arrangement would be between these political orders given the fully considered preferences of their respective members may be impossible to ascertain.

Encounters with nomadic and expansionist peoples.

Now let's consider interactions including nomadic and expansionist political orders. We have already briefly discussed one such interaction when we discussed the interactions of a society of exclusively material goods acquiring individuals with a society of leisure and outdoor self-sufficiency activity enthusiasts, for a society of 'materialists' will be naturally expansionist in-so-far as they envision no upper limit to the stores of material acquisitions they seek to accumulate. We assumed that, given these preference patterns consist of the fully considered preferences of the members of each society, there is no basis for cooperation between the societies and, therefore, they encounter one another in invalidating circumstances. Yet we need not make this assumption.

It may be that some who were formerly 'industrialists' may find that the existence of other individuals with other preference patterns may lead them to reconsider theirs and to come to share some of the preferences of the 'leisure lovers' and vice versa. As a result of such an encounter a complex set of individuals with complimentary preferences would likely exist such that a rational bargain could be struck between them reserving areas for each to engage in her most preferred activities. There would likely remain areas in which individuals with more nearly identical preference patterns would tend to cluster, creating boundaries between areas that display greater intra-area political integration and lesser inter-area political integration. But the individuals within these areas of relatively highly integrated political organization would recognize that their activities affect the utility of individuals outside their political order and are the proper subject of inter-group bargaining. Thus one would expect these individuals to debate about the issues that are the proper subject of inter-group bargaining and to take steps toward developing a set of procedures by which they could define, promulgate and enforce their de facto rights with respect to one another.

Attempts to invoke the principles of territorial integrity and political sovereignty as absolute principles in any debate over the proper definitions of de facto rights would be seen as attempts to evade cooperation and compromise. The result of such bargaining and compromise would be the

formation of a somewhat integrated supra-political order encompassing other more integrated sub-political orders. In general we can say that encounters with nomadic and expansionist political orders can lead to the same sorts of relationships as encounters between bounded political orders. If the individuals reject the new knowledge that there are other persons living in different ways and come to regard the others as sub-human barbarians, the encounter can only be characterized as irrational. If the individuals assimilate the new knowledge, thereby forming a new set of considered preferences, then either their preferences provide a basis for mutual cooperation and the formation of a supra-political order or their preferences provide no basis for cooperation and they encounter one another in invalidating circumstances. If the former, then we can determine to what extent the peoples respect one another's Human Rights and are concerned to work out procedures for defining the social rights that ought to be developed to regulate the activities of each that affect the utility of the others. If the latter, then the peoples encounter one another not bearing rights with respect to each other and, since they likely adversely affect each others interests, nocent to nocent.

The problem of disintegrated political orders

In a disintegrated political order, there is disagreement among the members over the proper procedures to be used to define, promulgate and/or enforce the rights the members

bear. If the disagreement is deep-seated some of the members may wish to secede from the political order and establish a bounded frontier within which to establish a separate political order among themselves. Thus far we have assumed that political orders arise in isolation from one another and have discussed the appropriate grounds on which these political orders can establish a quasi-property right to their bounded territories when they encounter one another and discover that the activities they engage in within their bounded territories affect persons outside their frontiers. Now we are concerned to determine whether disaffected members of a political order can wrest part of the territory away from the political order they do not cherish and use this territory to form a separate state. The answer to this question will differ depending on whether we judge that the disintegrated political order is nearly just or not nearly just.

I have stipulated that the following characterizes a nearly ideal political order:

1. The Human Rights to person are recognized as de facto rights and procedural justice assures that to a very great extent these rights are respected.
2. The Human Rights to property are approximated to a relatively high degree.
3. Interaction proceeds from the base provided by Human Rights in a mutually beneficial way.

There is no reason why there may not be a lot of disagreement over how rights ought to be defined, promulgated and enforced in a nearly just political order, especially

when it is recognized that a nearly just political order need not have ideal contractual rights, all that is required is for the de facto contractual rights in the political order to assure that interactions result in mutual benefit not that the mutual benefit be ideally fair.

There may exist a lot of disagreement in a nearly just political order for a number of reasons. For example, there may exist a lot of disagreement over the proper definition of contractual rights in-so-far as they are perceived to be unfair and also in-so-far as any person seeks to have them defined so as to unfairly benefit himself. Furthermore, the members of the political order may espouse different ideal theories of justice that provide an overlapping consensus which assures that Human Rights are closely approximated within the society but which results in a lot of disagreement over the proper definition of contractual rights and/or the proper line to be drawn between moral and non-moral social rights (for example, the proper sphere in which ecclesiastical rights operate). Additionally, non-ideal theories of justice may be espoused which are only masks for an agenda being pushed which unfairly advances the interests of some at the expense of the interests of others. If we assume that there are no procedures that can assure that at least some of these sources of disagreement will not arise in a nearly ideal social order (even one which is very

nearly ideal in having de facto contractual rights that are very nearly fair) then there is always a potential for disintegration in a nearly ideal social order.

It seems reasonable to assume that were a group of disaffected members of a disintegrated but nearly ideal political order to secede they would most likely be unable to form a separate state in such a way that the two new states would now consist of individuals who affect only those persons who live in their own state. For it seems likely that quite often some persons may have a very strong preferences not to be governed by those who are disaffected from the original inclusive state (or by those who are not so disaffected) and also have a very strong preference not to have to move. Ireland at the time of the partition seems to be such a case. As another example it may be that the disaffected would claim a territory that possesses resources that the non-disaffected also have an interest in sharing. The attempted secession of the Katanga province from the state of Congo in Africa seems to be a case of this kind. If this is the case, then the disagreement ought to be worked out within the existing political order. It seems likely that any justification given for a secession would be couched in the language of nationalism and appeal to the principles of political sovereignty and territorial integrity and would tend to institutionalise rather than to resolve the disagreement that arose in the original, inclusive political order. We can conclude that generally, within a

nearly just but disintegrated political order there is no justification for disaffected members to secede and form a new state but that disaffection ought to be directed at reforming the procedures used to define, promulgate or enforce rights within that political order.

Now let's consider a disintegrated, non-nearly ideal political order. A political order can fail to be nearly ideal in at least the following four ways:

1. The Human Rights to person are not recognized as de facto rights; for example some persons are procedurally identified as the property of others and are held as slaves or some persons are entitled to use coercion on others who are said to be 'barbarians' so as to reduce the latter to a condition closely resembling slavery.

2. Although the political order purports to recognize the Human Rights to person as de facto rights, procedural justice fails to assure that significant violations of these rights do not occur or that when they do occur that the violators are punished, as when the police or military units of a political order engage in the practice of 'disappearances'.

3. The political order fails to assure that the Human Right to property is closely approximated, for example monopolistic or oligopolistic property rights are granted forcing some individuals to live at or below the minimum welfare level.

4. Nearly all of the cooperative surplus is gathered by the few so that talk of 'mutual benefit' is gratuitous.

I have claimed that within a nearly just political order there is generally no justification for an attempt by disaffected members to secede and to form their own state. I maintained that interdependence justifies a presumption in favor of attempting reform rather than secession. Since interdependence is likely to characterize, also, the relationship between persons in a non-nearly just political

order we ought to conclude that there is a presumption in favor of attempting reform rather than secession in these conditions also. But those who bear the guilt from violations of rights that move a political order away from being nearly just are likely to bear two characteristics that can have the effect of overriding the presumption in favor of attempting reform rather than secession as well as the presumption against the use of terrorism expressed in the second criterion for the evaluation of terrorism: Less objectionable methods ought to be tried first or until it is reasonable to suppose that such efforts would be fruitless. These two characteristics are: 1) being practically nocent from guilt and 2) being irrational, inflexible ideologues.

The first characteristic invalidates the presumption in favor of attempting reform because there is no possibility of mutual benefit with someone who is practically nocent with respect to you. In this case whether one attempts to secede from or to engage in revolution against the political order is a practical decision which turns on the feasibility of each of the alternatives. Since the violations of one's rights are extremely severe when one is confronted by the practically nocent, it may very likely be reasonable to suppose that less objectionable methods than a campaign of terrorism using the practically nocent as the target and/or audience population would fail to achieve one's END. In such circumstances, therefore, it is reasonable to suppose

that the presumption expressed in the second criterion for the evaluation of terrorism is very likely defeated.

The second characteristic that violators of ideal rights are likely to have in a non-nearly ideal state is being an irrational, inflexible ideologue. In the circumstances of near justice there may also be numerous irrational, inflexible ideologues but in-so-far as their ideologies entail reasonable approximations to ideal rights via an overlapping consensus there is no reason to override the presumptions against secession and engaging in terrorism based upon their irrationality and inflexibility. However the case is quite different in a non-nearly ideal state, for the violations of rights occurring here, especially if they are violations of the Right to Life, are so irreparable that whatever steps are necessary to defend them must be taken. Although gross violations of contractual rights are not irreparable in the way that the violation of the Right to Life is, if one is held at or below the self-sufficiency welfare level by the activities of irrational, inflexible ideologues in a non-nearly ideal political order one finds oneself in invalidating circumstances with respect to these ideologues, for the mutual benefit that grounds all rights is denied you by their activities. One is, in such circumstances, perfectly justified in adopting whatever seems the most rational course of action treating these ideologues as merely part of one's circumstances.

In general we can say that in a non-nearly ideal political order whether one attempts revolution or secession and in attempting either whether one uses, as the members of the target or audience population of a campaign of terrorism, those who are guilty of the violations of rights that make the political order non-nearly ideal are practical decisions which turn on the question of feasibility.

ENDNOTES

1. I am indebted to Kurt Baier for the distinction among invalidating, terminating and overriding modifications to prima facie obligation claims. See his "Book Review" in University of Pennsylvania Law Review, Vol. 124:561, 1975, and my discussion of this distinction below in which I closely follow Baier's account.
2. In this case Jane may be said to have a claim on Susan's time but prima facie obligation claims need not always give some particular person a claim on the person obligated.
3. The criteria I employ have been adapted most directly from five criteria presented by James Dick (Dick). However, he in turn has developed these from Rawls' account of the criteria for evaluating civil disobedience in (Rawls) and from Gerald C. MacCallum, Jr., "Reform, Violence, and Personal Integrity", Inquiry, 14, 301-17. I have also directly drawn from Rawls' account of the criteria for evaluating civil disobedience and from Sissela Bok's account of criteria for evaluating lying in (Bok).
4. See Walzer, 1977, ch. 6 for a discussion of Mill's and Marx's views on this matter.
5. For a recent defense see Thomas Hurka, "Rights and Capital Punishment", Dialogue, XXI, no. 4, December 1982.
6. An interesting attempt to apply Rawls' theory outside the circumstances to which he has explicitly restricted it is that of Charles R. Beitz, Political Theory and International Relations. In effect, Beitz treats Rawls as if he accepted a Kantian/theistic metaphysical position on the crucial issue of the validation of rights for he interprets Rawls' concept of 'cooperation' as if it were equivalent to the concept of 'interdependence' and argues that all of us living persons are interdependent.
7. See Lewis, pp. 97-100, for a defense of this claim.
8. See Gauthier, 1986, ch. V., for a explication and defense of the principle of minimax relative concession.
9. See Kurt Baier, "Guilt and Responsibility" in Peter A. French ed., Individual Responsibility and Collective Responsibility, for an illuminating discussion of the distinctions among the family of concepts including 'guilt', 'responsibility', and 'culpability'.
10. I have taken the title of this section from a Michael Walzer article by the same name (Walzer, 1980).

11. For a general historical and critical account of nationalism see Rupert Emerson, From Empire to Nation: The Rise to Self-Assertion of Asian and African Peoples (Emerson). Louis Snyder's The Meaning of Nationalism (Snyder) provides a general survey of the literature on nationalism. For a criticism of the nation-state as the sole basis for the legitimacy of political organization see Alfred Cobban's The Nation State and National Self-determination (Cobban).

12. See Gauthier, 1986, chapter II for a detailed discussion of considered preference as the standard of value underlying the moral theory of rational contractarianism.

13. By no means do I suggest that the encounter of European political order with American Indian political order can be characterized in these terms. It is more reasonable to suppose that to a great extent this encounter can be characterized in terms of European political order viewing American Indian political order as barbarian, sub-human and repugnant.

14. The debate between Michael Walzer and his critics over the moral status of the nation-state may be profitably viewed from this perspective. Walzer's critics emphasize violations of Human Rights (better still of what I would call Natural Rights) in their criticism of Walzer's just war theory, whereas Walzer, although he identifies some actions as actions anyone ought to recognize as a violation of rights (massacres and enslavement among them) is more inclined to think of rights in a way that is appropriate to a conception of rights as conventional, hence his insistence that the Nicaraguans have "the right to live in a civil society of a Nicaraguan sort". Walzer's views are to be found in Walzer, 1977, and Walzer, 1980. His critics include David Luban (Luban 1980a, Luban 1980b) and Gerald Doppelt (Doppelt). Portions of the debate are included as Part IV in Beitz, et. al. eds., 1985.

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